Notable Indian Trials:

TRIAL OF :: :: NIRMALKANTA ROY

EDITED BY

A LAWYER

MADRAS

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PREFACE

This is the first volume of a series to be published under the general heading "Notable Indian Trials."

The case of Nirmalkanta Roy, otherwise known as the Chitpur Tragedy, excited great public interest at the time and its chief significance lies in the fact that the accused was twice tried for murder at the Criminal Sessions of the High Court and, on the both occasions, the Jury or a majority, of them brought in a verdict of not guilty, which was not accepted by the presiding Judge, Mr. Justice Stephen, and at last the Crown was obliged to enter a *nolle prosequi*. The case is also remarkable for the ability with which it was conducted by eminent Counsel on both sides, by Mr. (now Sir) B. C. Mitter, Standing Counsel for the Crown at the first trial and by Sir (now Lord) S. P. Sinha assisted by Mr. B. C. Mitter, for the Crown at the second trial and by Mr. E. Norton, assisted by Messrs. C. R. Das and J. N. Roy for the defence at both trials.

This is a full report of the first trial.

If the present publication meets with a favourable reception at the hands of the profession and the public, it is proposed to follow this up quickly with other volumes.

Jan. 10, 1920. THE EDITOR.

TRIAL OF NIRMALKANTA ROY

FIRST DAY

WEDNESDAY, 25TH FEBRUARY, 1914

THE CHARGES ALTERED

The Standing Counsel :—I desire to slightly alter the first charge. I would rather have it in the form in which it was drawn up in the Magistrate's Court. This charge here is that "the said Nirmal Kanta Roy, on or about the 19th day of January in the year of Our Lord 1914, in Calcutta afore said, committed murder by causing the death of one Nripendra Nath Ghose, and thereby he, the said Nirmal Kanta Roy, committed an offence punishable under section 302, of the Indian Penal Code." It would when altered read as follows :—That you the said Nirmal Kanta Roy on or about the 19th day of January, 1914, in Calcutta, in conjunction with another person in furtherance of the common intention of yourself and that other person, committed murder by intentionally or unintentionally causing the death of one Nripendra Nath Ghose and thereby committed an offence under section 302, of the Indian Penal Code read with section 34." That is to say, I desire to add the words : "In conjunction with another person in pursuance of the common intention of yourself and that other person." That is not in the charge drawn up. This is a charge under section 302, read with section 34, I. P. C. The charge under 114, I will leave as it is, and I will add the ordinary charge of abetment under section 109.

Mr. Justice Stephen: You want to also put in a substantive charge of abetment.

Standing Counsel: Yes, we have the charge of abetment under section 114, and we want to add the ordinary charge of abetment under section 109.

Mr. Justice Stephen: Has the other side anything to say about it?

Mr. Norton: I have just only had the charges put into my hands, and I have not had an opportunity of investigating the matter.

Mr. Justice Stephen: We need not decide it just now.

Standing Counsel: The charges will have to be read to the prisoner. We are entitled to do this at any time.

Mr. Justice Stephen: Perhaps it may be more convenient to amend the charge afterwards. I can amend it at any time.

Standing Counsel: Then they may want to re-examine the witnesses. They would be entitled to do that. So far as the first charge is concerned, this was the charge in the Police Court, and what I am adding is really less than Section 114.

Mr. Justice Stephen: section 114, is constantly used for purposes for which it was not intended.

Standing Counsel: The first charge will be as it was in the Committing Magistrate's Court. The second will stand. The third will be an added charge under section 109. The fourth will be the third here, and the fifth will be the fourth.

Mr. Justice Stephen: Mr. Norton has a right to take any objection.

Mr. Norton: I have not had time to go into it.

Mr. Justice Stephen: I think we can take it to-morrow morning and if I then think that the amendment ought not to be allowed, then I will strike it out. Now I order the amendment to be made as

you suggest and Mr. Norton has the right reserved to him to make any objection he wishes before to-morrow.

THE ACCUSED PLEADS NOT GUILTY

The Clerk of the Crown then read the first charge as altered.

The prisoner pleaded "Not guilty."

Clerk of the Crown: You are further charged that some person unknown at or about the time and in the place aforesaid committed murder by causing the death of the said Nripendra Nath Ghose and that you, Nirmal Kanta Roy, who, if absent, would have been punishable as an abettor of such offence in consequence of such abetment, was present when such offence was committed and abetted in the commission of such offence and thereby you, Nirmal Kanta Roy, committed an offence punishable under section 114 read with section 302 I. P. C.

The prisoner: Not guilty.

Clerk of the Crown: You are further charged that at or about the time and place aforesaid you abetted that person unknown in committing the offence mentioned in the first charge, which offence was committed in consequence of that and thereby you committed an offence under section 109 read with section 302 I. P. C.?

The prisoner: Not guilty.

Clerk of the Crown: You are further charged that at or about the time aforesaid you committed murder by causing the death of one Ananta Teli, otherwise called Antu Teli and thereby you committed an offence punishable under section 302 of the I. P. C.?

The prisoner: Not guilty.

Clerk of the Crown: You are lastly charged that you at or about the time and in the place aforesaid you committed culpable homicide not amounting to murder by causing the death of the said Ananta

Teli, otherwise called Antu Teli, and thereby you committed an offence under section 304 I. P. C. ?

The prisoner: Not guilty.

Jury.

The following jury was then empannelled, the prosecution having exercised two challenges, and the defence having exercised eight:—Mr. L. B. L. Buckley (Foreman), Babu Bejoy Chundra Singh, Babu Manick Lal Chunder, Mr. M. J. Calvacorissi, Babu C. C. Mookerjee, B.A., Babu S. C. Ghose, Mr. R. H. M. Groves, Mr. T. Nicoll and Babu P. N. Banerjee.

The charges were then read out to the jury by the Clerk of the Court.

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The Standing Counsel then addressing the jury said:—The charges under which the accused is being tried have been read out to you by the Clerk of the Crown. Before I explain to you the sections which relate to these charges, I think it will be more convenient if I state to you shortly the events which you have to discuss in this case. The accused is charged with the murder of Nripendra Nath Ghose and the abetment of that murder and also with the murder of one Ananta Teli and with culpable homicide not amounting to murder in respect of the death of Ananta Teli. On January 19th, 1914, Nripendra Nath Ghose who was a police inspector, was proceeding in a Belgatchia car from south to north. He got down from the front car (you see there are two) at the junction of Upper Chitpore Road, Sova Bazar Street and Grey Street. His car was turning into Grey Street. Probably the plan showing the locality if put into your hands will help you. You see in the plan where the Upper Chitpore Road, Sova Bazar Street and Grey Street meet. Upper Chitpore Road proceeds from north to south. Now going southwards you get to Beniatola Street. If you turn to the west, you then get into a street or lane called Sonar Gouranga Temple Lane. That runs north to south parallel to Upper

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Chitpore Road. Then Sonar Gouranga Temple Lane meets Ahiritolla Second Lane. You turn to the west a little and then you get into a street called Raj Kristo Dey Street. That gets into Ahiritolla Street. Then Ahiritolla Street joins the Upper Chitpore Road again. Going southwards following the letters D. D. D., you come to the joining of Upper Chitpore Road and Musjid Bari Street. Now if you bear that in mind, I will relate to you the incidents which the prosecution alleges happened in this locality on that day.

As I have told you, Nripendra Nath Ghose was in the first car of the Belgatchia Tram, proceeding from south to north and it was to turn into Grey Street. He got down there at or near the crossing. There was there a plain clothes constable whose name is Radha Sham Singh Radha Sham Singh says, that he heard the report of a gun shot. He turned round and saw two Bengali young men. One of them he subsequently identifies as the accused. He saw the two Bengali young men firing at Nripendra Nath Ghose, and he heard three more reports. Then these two young men ran towards the south. They took a southern course, as you see by the dotted line DD. There was after that the report of another shot which will be somewhere near the place indicated by the letter E, because it is not possible to locate it with any precise mathematical instrument. One of the young men then disappeared and he has not been traced. The other young man, the accused, was chased by Radha Sham Singh and also by another constable of the name of Debi Gowala, who was on duty also at that place, namely, the junction, where Radha Sham Singh saw Nripendra Nath Ghose shot. This Devi Gowala joined in the chase, and other people joined in the chase also. They pursued this young man along that line D D D.

The account that Radha Sham Singh gives as to

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what took place at that junction is substantially corroborated by Debi Gowala. They followed this young man who turned into Beniatola Street. Then he got into Sonar Gouranga Temple Lane. When he turned the corner from Beniatola Street into Sona Gouranga Temple Street, other people also joined the chase, and among them was Head Constable Abdul Gaffur. They saw him enter Sonar Gouranga Temple Street and followed him down Raj Kristo Dey's Lane and other lanes and streets, that is to say through Aheereetola Street and Upper Chitpore Road into Musjid Bari Street along the way indicated by the letter D D D.

I ought to tell you that another incident happened in the meantime while the accused was being pursued. In Sonar Gouranga Lane, while the accused was being pursued by these two constables and other people who were shouting "Thief! Thief!" "Khoon Kiya" a man named Ganga Teli, attempted to catch the accused by his wrapper or *chudder*, and the accused fired at him. This man sat down. The bullet did not hit him, but grazed past him, and struck a little boy, named Ananta Teli, who was behind him, on the forehead with the result that he fell down, and immediately became unconscious. Subsequently he died on the same night at 10 P.M. Then as I told you the accused was being pursued. He had fired that shot at Ganga but hit Ananta and as Ananta fell down he went on to Raj Kristo Dey's Lane and Aheereetola Street into Upper Chitpore Road, and then turned into Musjid Bari Street. At the corner of Musjid Bari Street and Upper Chitpore Road there is a hackney carriage stand. Amongst other people who were there, there was one Sree Dousad, a hackney carriage driver, Mano Dutt Pandey, who is the owner of a hackney carriage and Debi Borai, the owner of a *pan* shop. These people heard the noise, or as they call it the *hulla* and they heard shouts of *puckro*,

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puckro. If you turn to the fourth sheet, you will find the position explained more clearly. If you follow the line D D D which the accused took and turned into Musjid Bari Street, you will find that there is a carriage stand there and there is a *pan* shop marked with the letter O. Debi Borai and Sree Dousad saw the man turning into Musjid Bari Street from Chitpore Road, with the revolver in his hand. This man Sree Dousad identifies the accused. The accused pointed the pistol at Sree Dousad, who dodged, and immediately after the accused had proceeded a few steps he was seized by Manno Dutt Pandey. As soon as the accused was seized Sree Dousad went up and snatched away the revolver from the accused's hand. By this time Radha Sham Singh, who had been following him, also came up and seized the accused by the waist. Debi Gowala, the other constable, also arrived then. Abdul Gaffur, the head-constable who, I told you, saw him getting into Sonar Gouranga Temple Street, also arrived, and thereupon Sree Dousad made over the revolver which he had snatched away from the hand of the accused to Abdul Gaffur.

Abdul Gaffur then proceeded to search the person of the accused and in his right-hand side pocket were found two cartridges, and he was then taken to the thana. So that up to this point what the prosecution alleges is shortly this: Nripendra got down from the tram-car near the junction; Radha Sham Singh heard the report of a gun shot and so did Debi Gowala They turned round and saw two Bengali youths firing at Nripendra. He fell down and then they turned southwards and ran and these people followed them as well as other people. Then a shot was fired at or near a point in Upper Chitpore Road. So far as the other young man is concerned, he has not been traced ; he got into a crowd and they lost sight of him. Then this accused turned into Beniatola Lane and came into Sona

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Gouranga Temple Lane. Where Ganga Teli attempted to catch him and he fired a shot which did not hit Ganga Teli but another person, the boy Ananta Teli with the result that he fell down unconscious and died shortly after. Then the accused came through Aheereetola Street into Upper Chitpore Road and got into Musjid Bari Street where Sree Dousad attempted to catch him. He pointed his pistol at Sree Dousad who dodged him. Then he went a little further and was arrested by Manno Dutt Pandey, a hackney carriage owner. Immediately after this Sree Dousad came up and snatched the revolver from his hand. Then they were joined by Radha Sham Singh, the other constable Debi Gowala and Abdul Gaffur. His person was searched and in the right-hand pocket were found two cartridges. He was then taken to the thana. On their way to the thana Abdul Gaffur and the other constables met Sub-Inspector Mohendra Nath Singh and Abdul Gaffur made over the revolver and the two cartridges to the Sub-Inspector, who shortly after made over these articles to Mr. Walker, Deputy Commissioner of Police.

In the meantime information had been given at the thana by a man called Gulam Nubbi. The body of Inspector Nripendra Nath Ghose was taken in a carriage to the thana and from there to the morgue. Ananta Teli was removed to the Mayo Hospital in an unconscious state and Dr. Moitra there extracted a portion of the bullet from his body. That portion of the bullet weighed 164 grains The boy died at 10-30 P.M. His body was removed to the morgue. There the Police Surgeon extracted another portion of the same bullet which was found to weigh 40 grains.

According to Inspector Lahiri who is in charge of the Arms Department, the weight of the larger portion was 162 grains. As I said before, the one portion of the bullet was extracted by Dr. Moitra who

found that it weighed 164 grains, and the smaller portion weighing 40 grains was extracted by the Police Surgeon, the two together making up either 202 grains or 204 grains (exhibits shown to the jury.) Standing Counsel.

Mr. Justice Stephen :—These were from Ananta Teli's body ?

Standing Counsel :—Yes, Dr. Moitra extracted one portion of the bullet weighing 164 grains and, another small porrion weighing 40 grains was extracted at the post-mortem examination by Major Foster. They are exhibits 5 and 7 in the court below.

From the body of Nripendra Nath Ghose, Major Foster extracted two entire bullets and a portion of another bullet. The two entire bullets extracted from Nripendra's body are of ·360 bore.

Evidence will be called to show that the revolver found on the accused takes cartridges of ·450 bore, the entire bullet of which would weigh 225 grains. We have got two portions of it weighing altogether 202 or 204 grains, and evidence will be called to show that the bullet found in Ananta Teli's body might have been fired from the revolver found on the accused. The revolver itself is a five-chambered one. On examination it was found that two cartridges had exploded, one had misfired and there were still remaining in it two loaded ones.

I have given you a short resume of the facts which will be placed before you. The sections under which the accused is charged on the first count are sections 34 and 332 read together. Section 34 is this : when a criminal act is done by several persons in furtherance of a common intention, each such person is liable for that act, in the same manner as if the act, were done by him alone. So that if you have evidence placed before you that the accused and the other man who escaped were both

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firing at Nripendra and if you come to the conclusion that Nripendra died in consequence of a bullet wound received from the other man, then under section 34 both of them, the unknown man as well as the accused would be equally guilty of the offence namely of killing Nripendra. If both of them fired, but if the actual shot that killed Nripendra came from the unknown person, if you think that these two persons were acting in furtherance of a common object or intention, then each of them will be guilty of the same offence.

I will first of all explain to you what culpable homicide is. Culpable homicide may mean a murder, or it may be a lesser offence not amounting to murder. In other words, someone must be killed before it can be called culpable homicide. When a person is killed, the degree of criminality will depend upon the intention or knowledge with which the killing was effected. If it amounts to a particular degree it is a murder; if it is of a lesser degree, it will be culpable homicide not amounting to murder. Section 304 is as follows:—"Whoever commits culpable homicide not amounting to murder shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death or of causing such bodily injury as is likely to cause death or with the knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death." To establish culpable homicide we have to establish the death of Nripendra and Ananta, and if death was caused with the intention of causing death or of causing such bodily injury as is likely to cause death, it is culpable homicide. If it is done with the intention of causing death it is always murder. If the intention is to cause such bodily

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injury as in the ordinary course of nature must cause death, then it is murder. If, on the other hand, it is not done with that intention but if these bodily injuries are of such a nature that may cause death or is likely to cause death, then it is the lesser attempt of culpable homicide not amounting to murder. If the injury is of such a nature that it must in the ordinary course of nature cause death then it is murder. If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, then it is murder. If a person committing an act knows that it is so dangerous that it must in all probability cause death or such bodily injury as is likely to cause death then this is murder. If in a crowded place like that you fire a revolver and although you aim at one man and you hit another man, the question is whether it is not an exceedingly dangerous thing to do and that it must in all probability cause death. If you think that in all probability it need not cause death but is merely likely to cause death, then it is the lesser offence In all these cases you have to see not the weapon used or the part aimed at but the consequences which have followed from that. It is hardly necessary to say that if a man shoots another man with a revolver in a vulnerable part of his body, then in the ordinary course of nature death must follow, and the law presumes that to be the ordinary consequence of the man's act. If certain consequences follow from certain acts ordinarily, then these acts are in law presumed to have been intended by that man.

With regard to Nripendra, he died instantly. It will be for you to say whether or not in these circumstances if you think that the other accused fired the shot, or that death was caused by the shot of the other man, accused having a common inten-

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tion, then it will be for you to say whether it was not caused by doing an act which will ordinarily cause death.

Similarly in the case of Ananta Teli, he fell down unconscious and was removed to hospital where he died after a short time. He was hit in the forehead and it is for you to say whether in the ordinary course of nature the wound would not cause death. If you think that it does not follow that in the ordinary course of nature it would cause death then it would be the lesser offence.

Then there is a charge under the abetment section. The person who abets the doing of a thing or instigates a person to do it is equally liable with the person who does it. If you believe that the intentions of these two young men were the same, that they were both firing or that one was helping the other then you will find that the one was intentionally committing the act done by the other.

Section 114 merely says that whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

EVIDENCE FOR THE PROSECUTION

S. C. Manna.

THE first witness examined was Shama Charan Manna, a plan-maker who examined by the Standing Counsel identified the plans of the spot prepared by him and explained them in detail.

Cross-examined by Mr. Norton, he said that, anticipating he would be examined on those points, he went to the scene of the occurrence on two occasions at night to see the lights in the shops along the route and how the place was lighted. He especially noticed that the lights were bright and the lamps clean.

You anticipated that the question of lights is an important point?—Yes. S. C. Mauna.

Continuing, witness said that the constable who pointed out the place told him that the car was then moving slowly at the junction. The lights in the tramcars illuminated as much the cars as they did the street.

Constable Radha Sham Singh was next examined by the Standing Counsel. He said that on the night of January 19th last he was on duty to watch suspects at the crossing at Chitpore and Sova Bazar. At about 8 P.M., he saw a tramcar proceeding towards Grey Street. Inspector Nripendra Nath Ghose alighted from that car. He heard the noise of a cracker and then saw two Bengali boys get down from the tramcar. After firing two or three times in succession at the Inspector they ran away. Witness raised a hue and cry and chased them along Chitpore Road towards the south. R. S. Singh.

After identifying the prisoner as one of the two men whom he chased, witness said that after running some distance they fired again. One of them disappeared and the prisoner entered Sonar Gouranga Lane. Ananta caught the prisoner's chudder, on which the prisoner fired his pistol. Ananta fell down and the prisoner continued running. At the junction of Musjid Bari Street and Chitpore Road the prisoner was seized by Mano Dutt Panday. Sree Dousad coachman took the pistol from the prisoner. Witness then came up and arrested the prisoner. Two or three minutes later Head Constable Gaffur came, when Sree Dousad made over the pistol to him. The Head Constable then searched the accused and found two cartridges in his right hand pocket. The accused was then taken to the thana. On the way they met Inspector Mohendra Nath Singh to whom the pistol and the cartridges were made over.

The Court here adjourned for lunch.

R. S. Singh. On the Court re-assembling, the witness was cross-examined by Mr. Norton. He said that by crackers he meant pistol reports. He heard only one report before he turned round. Immediately on hearing the report he looked round and saw two Bengalis alighting from the front car. As soon as the first shot was fired the Inspecter fell on the ground. The two Bengalis alighted and fired at him in quick succession. The Inspector fell on his face. His head was slightly towards the north-west. There was a little blood but he did not notice where it came from.

Were you excited ?—Yes. Immediately after that the young men came up close to him, within three or four feet of him.

And they both fired ?—Yes.

Did the accused fire ?—Yes, once.

Did he hit the Inspector ?—Yes.

Where ?—Both the men fired two or three shots in quick succession. Whether the bullets hit the Inspector or not, I could not notice. Immediately after that he ran away.

Did you try to seize them ?—No. How could I ? On alighting from the car, they fired and ran away.

Do you know how many wounds there were on the body of the Inspector ?—No.

Have you heard since ?—I heard there was one wound on the head but I believe there were two or three.

After they left the car and came up, which of the two fired first ?—The man who is not here fired first.

What sort of a man was he ?—He was a man of about the same age as the accused in the dock.

What age would that be ?—About twenty-five years.

About what height ?—About the same height as the accused. I did not measure his height.

How was he dressed ?—He had on a yellowish chudder I noticed a pistol in his hand. I did not notice the rest of his dress. R. S. Singh.

Had he any hair on his face ?—He had moustaches like the accused.

He might have been the accused's twin brother?—No. The other man was darker than the accused.

Slightly darker or much ?—Slightly.

Is that the only difference between the two ?—Yes.

How long did this occurrence take from the time you saw these two boys alight to the time they ran away ?—Only a minute.

They had their backs to the trailer ?—Yes.

How was the accused dressed ?—He had on a black chudder, a coat, dhoti, shirt and shoes.

Patent leather shoes ?—I did not notice.

Had he on socks ?—I did not notice.

Both then turned and ran towards the south ?—Yes.

With the pistols in their hands ?—Yes.

They ran side by side ?—Yes.

And you chased them ?—Yes.

Are you a fast runner and an active man ?—Yes.

Have you won a prize in the police sports ?—No. I was on leave at the time.

Witness then described in detail his chase after the two men. One man disappeared after a little while. Witness followed the accused all along. A large number of people followed him. There was no other policeman between him and the accused He actually saw the accused shoot the boy Ananta Toli. The boy caught the accused by the chudder and on that the accused immediately turned round, fired and ran off.

Did he stop running while shooting ?—There was a very slight delay.

R. S. Singh. What happened to the chudder?—I did not notice whether the chudder was pulled off his body or not.

You were in at the death? You saw the accused being caught in Musjid Bari Street?—Yes.

And you put your own arms round his waist?—Yes.

And at that time he had on the chudder?—I did not notice it. I did not see the chudder on his body when he was arrested.

Do you know what has become of the chudder?—No.

Witness then said that there was a talk about the chudder and he said he did not know where it was. That same night when he took the accused to the thana, Inspector Mohendra Nath Singh asked him what had become of the chudder and he said he did not know where it had been lost.

Who did the accused aim at? Did he aim at Ganga?—Both Ganga and Ananta were close to one another and I don't know whom he aimed at. Ganga sat right down and the bullet hit Ananta, who was just behind.

Where were you then?—I was twelve to thirteen paces behind.

Did you stop when the shot was fired?—Yes.

Why?—Lest the bullet should hit me.

But the other man was running away? Yes, and I was following him.

You never lost sight of him?—Yes, at times for a second or two, when he was turning a corner.

Except that you never lost sight of him?—No.

No one has brought to you or to the thana the chudder which was found in the streets that night or the next morning?—Not to my knowledge.

Do you know whether a reward was offered for the recovery of the chudder? I don't know.

On January 26th last, did you attend a parade on the Maidan ?—I don't remember the date. I did attend a parade. R. S. Singh.

Did you receive Rs. 750 from the Government over this transaction ?—Yes.

How often did you get Rs. 750 from the Government ?—I have never before got Rs. 750 from the Government, but for arresting thieves, etc., I have sometimes got Rs. 10.

When did you receive this Rs. 750 from Government in connection with this arrest ?—I don't remember the date.

It was three days after you gave evidence before Mr. Swinhoe ?—Two or three days after.

The Commissioner of Police was at that parade ?—Yes.

And His Excellency the Governor ?—The Government House carriage was there, but I don't know whether the Governor was there.

You got Rs. 750 for arresting this man ?—Yes.

And three other policemen got Rs. 750 each for the same thing ?—Yes.

And five non-policemen got sums ranging from Rs. 50 to Rs. 750 ?—Yes.

And that was before the case was committed to the sessions ?—It was after the case was heard at Lall Bazar.

Were you not told by the Commissioner of Police when that remuneration was given to you in public that it was for arresting the murderer of the Inspector ?—Yes, the Commissioner told me that the Inspector was dead and I had arrested the accused and would get a reward.

Continuing, witness said that after he seized the accused two or three other policemen came up.

R. S. Singh. There was a constable attached to the Bengal Police named Ram Bhujan Singh. Constable Debi Gouala and head constable Abdul Gaffur were also there. The four of them took the accused to the thana.

When you seized the accused, had he pistol in his hand ?—Yes.

Did you see the accused present the pistol at Mono Dutt ?—Don't remember.

Did you see him present the pistol at any one in Musjid Bari Street ?—At the junction of Musjid Bari Street and Chitpore Road, I saw him present the pistol at Sree Dousad.

Witness then said that when the accused was searched, there was a large crowd. He did not notice whether Ganga was at the search. The jemadar asked the names of some of those present. He did not see anybody taking down names. No list was made that night of the things found on the accused. The jemadar Gaffur Khan conducted the search.

Were there any *bhadralogs* among those present at the search ?—There was a large crowd. I did not notice who were *bhadralogs* and who were not.

Is it true the pistol was found in the accused's pocket ?—No, it was found in his hand.

Were any pice found in his pocket ?—I did not notice any.

Is not that locality infested with *goondas* who are more or less in the pay of the police ?—What place is there that is not infested with *goondas* ? In Bengal, young and old are the same.

In that street there are women of the town ?—Yes.

At the place where the accused was arrested, there are women of the town ?—I did not notice that.

How long have you known Sree Dousad ?—I did not know him before that date. R. S. Singh.

Did not the accused complain to the Inspector of having been relieved of his watch in a brothel ?—Not in my presence.

Who put his hand into the accused's pockets and found the so-called cartridges ?—The jemadar.

Was he again searched at the thana ?—Yes. But nothing was found on him.

Except the police officers and *goondas* is there a single respectable person coming forward to vouch for the search in the street ?—They are not *goondas*. I don't know who else is coming forward.

Is it not a fact that no pistol was found in the accused's pocket, but that it was surreptitiously produced by the police at the thana ?—No.

Is it not a fact that no cartridges were found in the accused's pockets and that they were surreptitiously produced by the police at the thana ?—That is false.

Who actually took the accused from the street where he was arrested to the thana?—Debi Gowala, Gaffur Khan, Ram Bhujan Singh and I. A Bengali also helped us and accompanied us to the thana.

Is it a fact that you saw Ram Bhujan there that evening ? I put it to you that it is a lie ?—It is true.

Can you explain why Ram Bhujan was not called before the Magistrate ?—The Inspector in taking down the names omitted the name of Ram Bhujan.

When did you learn that the name of Ram Bhujan had been omitted ?—The next morning.

Why was he not examined until the 30th, after the commitment ?—I don't know.

Was Ram Bhujan Singh one of the men who got Rs. 750 ?—Yes.

R. S. Singh. He got his reward the same day as you ?—Yes.

And he was examined on the 30th ?—I don't know the date.

Did you see Shama Charan Manna, the plan-maker in this case ?—Yes.

Did you give him any information as to any particular spot ?—He made inquiries of me and I told him which way the accused ran, but I did not actually point out any places to him.

Did you tell the plan-maker that the boy who fired the shot was the accused ?—No.

Did anybody tell him that ?—I don't know.

RE-EXAMINATION

Re-examined by the Standing Counsel, witness said it was true that the bullets fired by the two youngmen hit the Inspector, but he did not notice which bullet hit him.

Can you tell us which bullet fired by which particular man hit the Inspector ?—Bullets fired by both those persons hit him.

How do you know that ?—I saw it with my own eyes.

Is there any truth in the suggestion made by Mr. Norton that there are *goondas* there in the pay of the police ?—No. Why should the police employ *goondas* ? The police and the *goondas* are inimical to each other.

S. C. Manna. Shama Charan Manna, the plan-maker, was then re-called and, in answer to Mr. Norton, identified the last witness as the man who had pointed out certain places to him.

The Court then rose for the day.

SECOND DAY

Thursday, 26th February, 1914

Debi Gowala, a constable attached to the Kummertoli thana, was first called and examined by the Standing Counsel, said that on the night of the alleged murder he was on duty at the Sova Bazar crossing from 6 to 10 P. M. **Debi Gowala.**

Standing Counsel: Tell us what you saw?—At 8 o'clock, a tram was coming from the south going towards Belgatchia. Inspector Nripendra Babu alighted from the car. Immediately after that, two Bengali boys got down from the same car. I heard a sound, and looking round, saw the Inspector Babu, staggering and reeling and the Bengali Babus firing pistols two or three times. The Babu fell down and the boys ran away.

Are you able to identify either of them?—Yes, I will identify one of them.

Do you see any of them here?—Yes there he is, (pointing to accused).

Which way did the Babus run away?—They ran south along Chitpore Road.

Did you see anything more of the Babus?—Both of them had pistols in their hands as they ran.

When you saw them running to the south, what did you do?—I chased them along Chitpore Road.

What happened then?—After they had proceeded some distance down Chitpore Road, another shot was fired.

Are you able to say which of those Babus fired that shot?—I can't say, because I was startled by that shot.

Debi Gowala. After the firing, what happened?—From that time, I lost sight of one of the accused.

Yes, and then?—I continued, following the other accused up to Beniatolla Street and when he turned into Beniatolla, I also turned into Beniatolla. He then turned into Sonar Gouranga Temple Lane. We were following him and shouting out "Seize him, seize him." There was a man and a boy Ganga Teli, in Sonar Gouranga Temple Lane. They made an attempt to lay hold of the accused and caught his *chudder*.

Whom do you mean by the accused?—I mean the man who was running.

Then what happened?—Ganga Teli sat down and the shot struck Ananta on the head. The accused went on running. When I came up to the spot, I found that the boy had fallen down, but I did not stay there; I continued to follow accused and passing through Raj Kishore Dey's Lane, he passed into Aheereetola.

What did you do?—I followed.

Then?—From Aheereetolla he got into Chitpore Road again, and the accused then ran towards the south along Chitpore Road and I followed. Proceeding further southward, he turned into Musjid Bari Street.

And what happened then?—Manno Dutt Pandey, Sree Dousad, Radha Syam Singh and Ganga seized the accused in Musjid Bari Street, and then I arrived there.

The four men named were called and identified by witness.

After that, what happened?—Sree Dousad snatched away a pistol from accused's hand and made it over to Gaffoor Jemadar.

When did Gaffoor come?—He came at the same time.

Was anything else done?—The accused's pockets were searched, and two cartridges were found—in his right hand pocket. Debi Gowala.

What happened then?—Then we arrested him and took him to the thana.

Did you meet any one on the road?—Yes we met the Babu on the road.

You mean Mohendra Babu?—Yes.

Then what happened?—The Jemadar made over the pistol and the cartridges to the Babu.

Then you went to the thana?—Yes.

Later on, did you see the dead body of the Inspector Nripendra Nath Ghose?—Yes, while we were taking the accused to the thana, we saw the dead body on the way.

Cross-examined by Mr. Norton. Had you been stationed at this place before Jan. 19th?—Yes, all along.

For how long?—For three or four months.

Are not the evenings in the months of December and January, misty in that locality?—No.

What, not at all?—There is only a little smoke from the shopkeepers, when they light up their fire-places.

In addition was there not a mist at that time of the year?—No.

Was not that evening a misty one,—not foggy, but merely misty?—No, it was not misty, it was like other evenings. There was nothing unusual.

Are you familiar with the running of the tram-cars in that street?—Yes, I am.

Is there any stopping station on the east side of Chitpore Road, south of where you were standing?—Yes, there is a signboard shewing that it is the stopping station, to the south of the cross road.

Debi Gowala. Do not the trams ordinarily stop there ?—Yes.

Did not the tram stop there that night, according to its ordinary custom ?—I cannot tell you whether it did or did not stop.

Was it because you were not noticing ?—Yes, I did not notice it.

Is there any reason why on that night, it should stop in that place instead of at the proper station ?—The tram did not stop at the corner. It was in motion.

I am asking you whether there is any reason why the tram should not stop there that night ?—I cannot assign any reason.

Then I may take it that when you saw the tram up at the curve there, it was on the move ?—Yes, it was moving slowly.

Consisting of how many cars ?—There were two cars, one the first class and the other the second.

When the car stopped, how were you facing ?—The car didn't stop there.

When the car came up to the spot, where you say you saw the occurrence, how were you facing ?—I was facing southwards.

Is it true that whilst that car was in motion and before you saw any shooting, you saw the Inspector get down from the car ?—Yes, the Babu got down before the report.

You saw him get down ?—Yes.

Is it true that simultaneously you saw two Bengali young men get down from the car before you heard any report ?—Yes.

You see this man in the dock ? Of what height was the Inspector ? was he taller than this man or of the same height ?—He was a shorter man.

By how much ?—I did not measure him. I can only say that he was shorter than this man.

I asked you by how much was he shorter, tell me approximately within an inch or two?—I can only say that he was shorter than this man. Debi Gowala

Cannot you say roughly?—No, I cannot.

And the other Bengali, as compared with this man, what was his height?—He was about the same age as this man. He was a little shorter, the proportion being about as nineteen is to twenty.

Then after you saw the Inspector coming out of the car, and the two boys, you were looking at them?—No, I was not looking at them. I saw the Babu get down and then these two boys got down. I was then looking towards the west.

Oh, then you suddenly looked towards the west?—Yes I was looking towards the west. As soon as the Babu alighted from the car the other babus also got down, and immediately after that they fired.

I am not asking you a single question about that. You said you saw the Inspector and the two babus get down from the car and you turned to the west. Did the Inspector Babu begin to walk?—As soon as he started to walk, I heard the report.

Then he did begin to walk?—Yes. As soon as he got down from the car, and started to walk, he was shot.

I asked you whether you saw him walking when he got down?—I saw him get down from the car. I did not see him commence walking when I heard the report.

You mean simultaneously with your seeing him, you heard the report?—I looked round and saw the Babu getting down from the car. Then I turned my face towards the west. I had seen him before and I used to see him always.

I did not ask you this question. I asked you whether you saw him walking away after he got down from the car. I did not see him walking.

Debi Gowala. Now how far behind him were the two boys ?—They were close behind ; probably one pace behind him.

How were they dressed ? —They had wrapped up the upper part of their bodies. One of the accused had a yellow cloth and this was a black one.

It was an *alwan* ?—Yes, a black *alwan*.

Folded over his shoulders ?—No, he had wrapped himself up with it.

Will you show me how he had it on ?—It was thrown up over his shoulder. I did not notice exactly the way he had wrapped himself up with the chudder.

You have said that these two were about a pace behind the Inspector ? —Yes.

And how far were you from the Inspector when you saw him ? I was about 8 or 10 paces off.

Eight or ten paces off northwards ? Yes.

The north ? No, I was standing at a spot diagonally situated to the place where he was.

If these two men were behind the Inspector, the Inspector must have been between you and these two men when you saw them ? Yes, I did see them.

Will you answer my question. The Inspector was between you and these two men ?—No. The Inspector was not between me and these two men. He was between these two men.

You mean one man was on each side of him ?—These two men came out of two different compartments in the car. The Inspector Babu was in the middle. One man came out of the compartment in front and the other man came out from the compartment behind and, after they got down, both of them came in front of him.

One on each side of him ? They were quite close to him.

Were they on each side of him or were they both on the same side ?—They were one on each side of him. Debi Gowala.

I suppose they were looking at the Inspector Babu ?—No, they were just behind him.

I asked you just now whether they were behind or in front ?—They were behind him, one on each side, as I am showing now, close behind him.

Then the Inspector was between you and them ? He was nearer to you than to them ?—He was between the two men.

Was he before them or behind them ?—They were on his side. They were behind him, one on each side.

Then I understand that you were looking away, when you heard the report ?—Yes.

And on turning round what did you see ?—I saw that both boys had pistols in their hands. The Inspector Babu began to shiver.

After the report ?—Yes.

And then ?—Then they fired two or three shots and there was smoke. Then the Babu fell down. After three shots were fired, then the Babu fell down.

Let us understand it. There was a shot. You turned round and you saw the Inspector shivering ? —Yes.

Then after that you heard two or three shots ?—Yes.

That is to say three or four shots in all ?—Yes.

And after the three or four shots the Inspector collapsed ?—Yes, and then they started running.

Can you tell me distinctly whether there were three shots fired or four ?—No. First there was one shot and then after that there were two or three shots. I cannot tell you anything more definitely.

Debi Gowala. When you heard the first shot, which side was the Inspector facing ?—I did not notice that.

Please tell me now—try and recollect the circumstances—which way was he facing ?—I cannot remember that.

Which of the two fired the first shot, the man on his right or the man on his left ?—I did not notice, I saw pistols in the hands of both.

You cannot say which of the two fired the first shot. After the first one, did the shots of both take effect ?—I was at a distance. I did not notice all that.

You were only 8 or 10 paces off ?—Yes, I was 8 or 10 paces off.

And these two men were within a pace of the victim ?—Yes.

And they were so close that the pistols must have been almost touching the man's body ?—They were close behind him ; that is all that I can say.

Were they so close that, if they stretched out their arms, the muzzles of their pistols must have touched the Inspector ?—No. The muzzles of their pistols were not actually touching his body.

You saw that ?—Well, I did not see all that, I heard the reports only.

Then, please, do not guess. What I want you to say is whether they were so close that if they stretched out their arms, the muzzles of their pistols would have touched the body of the Inspector ?—I was standing at a distance. I did not notice whether the muzzle of the pistol was touching the body of the Inspector or not.

When in the lower court you said that you heard three shots fired. Is that true or not ?—One shot was fired first and two or three shots after that. What I said there I am saying now.

Is it true that you heard the report of a shot and, on looking round, you saw they were firing at the Inspector. They fired three times ?—I said that I heard three reports afterwards. Debi Gowala.

Is it true ?—Yes, there were two or three reports afterwards.

Just pay attention to this, did you make this statement in the lower court "I heard the report of a shot. I looked round and saw both the young men firing at the Inspector. They fired three times and the Inspector fell down.' Did you make that statement ?—I heard the reports of two or three shots fired.

I must press you. This is what the Magistrate has taken down. This is what you have signed ?—Yes.

Is what you said there true ?—I stated about two or three reports. I do not remember if I said anything else there.

I put to you what the Magistrate has recorded, and what you have signed. I only want to know whether it is correct or not ?—I have been telling you that I heard one report first and two or three reports after that.

I am not asking you what you said here. I am asking you about what you said to the Magistrate ?—What I stated there, I have been telling you here.

Mr. Justice Stephen : Have you ever heard a witness saying that what he said was untrue ?

Mr. Norton : I want him to say that it is true.

The Standing Counsel : I will not claim any right of reply if my friend puts his deposition in.

Mr. Norton : Were there two or three shots fired up to the moment the Inspector fell down and the young men ran away ?—Yes, that is correct.

Mr. Justice Stephen : Let us have all the deposi-

Debi Gowala. tions in. I think they ought to be as a matter of course.

The Standing Counsel: Your lordship can do that if you like. It is part of the record.

Mr. Justice Stephen: I think this is a convenient course.

The Standing Counsel: I do not offer any objection. I told my friend that if he put it in, I would not claim the right of reply.

Mr. Justice Stephen: I think it would be a convenient course. He did not fall down till the shots were fired. I can put it down "after the shots were fired and the Inspector fell down, they ran away?"

Mr. Norton: And you at once gave chase?—Yes.

Will you kindly tell me which way the Inspector faced when he fell?—I did not notice that.

Do you know what wounds the Inspector received?—I did not see the wounds.

I did not ask you if you saw them. Have you ever heard?—Well I hear now that he had bullet wounds.

How many, I asked you?—I did not see at the time, but I heard that he got three bullet wounds.

Do you know that he got a wound in the top of his head?—Yes, I have heard that.

It struck him in the top of his head and slipped downwards till it lodged in the big bone at the back of his head?—I have not heard that.

Do you know how he got that wound?—I ran after the accused. I did not stop there to see that.

Do you know or do you not know how he got that wound?—The Babus shot him. That is all that I can say.

Standing in the street?—Yes.

Now you have told us that the Babu fell down and the youths ran away ?—Yes. Debi Gowala

Then it is not true that the boys came and fired bullets into his prostrate body ?—When the Babu fell down, they started to run.

Is it or is it not true no Babus came and fired their revolvers into his prostrate body ? Did you see that ?—When I heard the first report, I saw the Inspector Babu staggering and reeling.

I don't want that.—When the Babu fell down after he had been shot, they ran away.

Leave off repeating what you have learned by rote and answer the question. The moment Nripendra Babu fell down, the two Bengalis ran ?—Yes.

Then they did not go and fire into his prostrate body ?—As soon as the Babu fell, they started running.

How far from you were they, when you began to chivvy them ?—I was about 14 or 15 paces behind.

Did you start in earnest pursuit ?—Yes.

Did you intend really to catch them with two loaded revolvers in their hands, or is all this merely by-play ?—Yes, I was following them keeping them in view.

With the earnest intention of catching them ?—Our orders are that in such cases—

Never mind your orders. I want to know about your impulse that night. Did you really try to catch these two men each of whom had a loaded revolver? —Yes, I was following them with the intention of catching them, whenever I could get an opportunity of catching them.

And if you could have caught them, you would have seized them, although they had loaded revolvers ?—I would only have arrested them if I could get an opportunity

Debi Gowala. Did you run very fast?—Yes. They were running fast and I also ran fast.

As fast as you could?—Yes.

What is your age?—You can see for yourself what my age is. It may be 40 or thereabouts.

Is it above or below 40?—It would be about 40.

There is nothing to be ashamed of in telling your age. When you began running after them, was there any policemen between you and them?—There was a man in plain clothes running after them. I could not recognise him at the time. I was running after them and I could not stop to see.

You say that you saw a man in plain clothes running after them. Did you know who he was then?—There were two or three men in plain clothes running after them.

Did you know any of them at the time?—Not until I arrived at the spot where this man was arrested.

Do you say that two or three plain clothes men joined in the pursuit from the place where the occurrence took place?—No, I do not say that.

Would you confine your attention to what I am asking you about? When these men ran away from the point where you say this murder took place, when you started to pursue them, was anyone pursuing them besides yourself?—I did not notice at that time.

Have you discovered since that at that time there was any one but yourself who had started upon that pursuit?—I do not know who may or may not have chased them.

You never heard?—Yes, I heard that other people also chased them.

From that point?—Not from that point.

Have you heard of any one joining the chase from there?—I have heard of no one joining the chase from there.

You ran down south ?—Yes. Debi Gowala.

Were these two young men together ?—Yes, they were running along side by side.

On which side ?—They were running along a little to the right.

Were you also running along a little to the right? —Yes.

Were you shouting ?—Yes.

What did you shout ?—"Seize them," "seize them," "they are running away committing murder."

Did you hear any one else join in that cry till you got to Beniatolla Street ?—I did not notice. I did not hear anything else.

Before you got to Beniatolla did anything else occur ?—Yes, to the north of the head of Beniatolla Street there was a shot fired in Chitpur Road.

Were there two persons at that time or one ? —Both the men were there.

How far behind were you ?—I was 14 or 15 paces behind.

You kept the same distance up as at the start ? —Yes.

There was not much hurry there. Did these young men fire at anybody or anything that you could see ?—They fired a shot, but it did not hit anyone.

From what you saw, can you tell me whether that shot was fired at any man or anything in particular ?—They were running away. While these men were running away, they turned and a shot was fired, but it did not hit anyone.

They both turned round ?—There was only one report.

I ask you who turned round ?—I was fifteen or sixteen paces behind. I did not notice which of them turned round.

Debi Gowala.

Was anyone between you and these two young men when that shot was fired ?—There was no one between us.

You know the plan-maker in this case ?—Yes.

Shortly after this occurrence you visited the scene with the plan-maker, did you not ?—Yes and Radha Syam Singh, the Inspector and others.

You were there ?—Yes.

You know the man named Radha Syam Singh? —Yes.

Was he also there ?—He was with us.

And didn't you in the presence of Radha Syam Singh point out the spot to the plan-maker which he has marked on the plan as being the spot from which that particular shot was fired ?—Yes, I did point it out.

And didn't you tell the plan-maker that it was this boy, the accused who fired that shot ?—No, I did not say that. I said I did not know which of the two had fired that shot.

Did Radha Syam Singh in your presence say that this shot was fired by this boy ?—Not in my presence.

Did the person who shot pause for a second ?—No, he did not.

Did you see the pistol pointed in your direction ? —I was fifteen or sixteen paces behind and I did not notice whether the pistol was pointed at me or not.

In your direction ?—I did not notice that.

Did you stop running or not ?—Yes, I was startled and I had stopped for a short time, and from that time I lost sight of one of these men.

I am coming to that disappearance. The Egyptian basket trick is nothing compared to this. Then immediately after one shot was fired, one man dis-

appeared. Where did he disappear ?—I don't know whether he went into some lane or other. Debi Gowala.

There is no lane there before you get to Beniatola Street. Did he disappear before the other man turned into Beniatola Street ?—Yes, the other man disappeared before the second man turned into Beniatola Street.

I don't know the locality. Can you suggest where he could have turned into before he got into Beniatola Lane ?—There were several lanes into which he might have turned.

Do you swear that there are several lanes from where he started and Beniatola ?—Yes, there are lanes and there is also a street.

Mr. Justice Stephen: I am speaking from recollection, but I think the plan-maker has spoken of another part.

The Standing Counsel: I think my learned friend cross-examined the plan-maker upon another portion of the road to the one he is now asking about.

Mr. Norton: I cross-examined him particularly from point A to Beniatola.

Standing Counsel: I think my learned friend is slightly in error. My recollection is that he cross-examined him with reference to Aheereetola and Chitpore.

Mr. Norton: I asked him if there was any escape from Raja Kishore Dey's lane.

Standing Counsel: I do not know that my friend cross-examined him with regard to any other point. I beg his pardon. I see that he did ask this question as to whether there was any break from point A to Beniatola. I see it is here.

Mr. Norton: I cross-examined the plan-maker who has shown that from Sova Bazar to Beniatola there is no entrance or lane of any sort. (To witness): Is there any lane or entrance of any sort

Debi Gowala. east or west from Chitpore Road ?—There are lanes running into Chitpore Road from the jurisdiction of the Burtollah Thana.

Between this point and the Sova Bazar and Chitpore Junction and Beniatola lane, will you swear that there are any other lanes ?—Yes. I say there are some lanes.

Well, let us have them. How many lanes are there ?—I think there are one or two.

How many ? One or two ?—There is one opposite Beniatola Street within the jurisdiction of the Burtollah Thana and there is one further to the north of that.

Does a plan give any impression to your mind at all ? Do you understand a plan ?—No, I cannot follow a plan.

Do you understand north and south ?—Yes.

Well, please walk down Chitpore Road from Sova Bazar Street. Understand this : you are walking down south. If you are walking down from Sova Bazar Street down Chitpore Road, is there any lane running off Chitpore on the west until you come to Beniatola ?—There are no lanes on the west side.

Are there any on the East side ?—Yes, there are.

What is the name of the first lane that you come to on the east side of the street ?—I cannot give you the name of the lane.

Let me suggest to you that it is Beniatola Lane and that there is a continuation of Beniatola Street? —It is within the jurisdiction of the Burtollah Thana, but I do not know its name.

Can you give me the name of any lane on the east side ?—There is another lane.

It is north or south of Beniatola ?—It is to the north of that.

How much north ?—A short distance to the north.

About how far, how many yards?—I did not measure the distance, so I cannot say. Debi Gowala.

Roughly?—No.

And you cannot give me the name?—I do not know the name.

And you do not know where it leads to?—It runs towards the east.

That is a very large order. Do you know where it leads to?—I do not know. I think it runs into Grey Street after running towards the east for some distance.

After this man made this mysterious disappearance after the firing of that shot, you pursued the single Babu?—Yes.

Did you see him turn into Beniatola Street?—Yes.

Was there anyone between you and him when he turned into Beniatola Street?—No, there was no one there when he turned into Beniatola Street.

Then you also turned into Beniatola Street?—Yes.

Did you see him turn round into Sonar Gouranga Temple Lane?—Yes.

There was no one between you and him there?—There was one man between him and me there.

Where did he spring from?—I did not notice from where he came, whether he came from the west or Beniatola or where.

Do you know who he was?—It was Radha Syam Singh. When he passed alongside of me I noticed him.

The last witness?—Yes.

He raced past you?—I did not notice whether he passed me or not.

I asked you whether there was anyone between you and the object of your pursuit and you said

Debi Gowala. this man Radha Syam Singh came past you?—I did not see where he came from, whether he came from behind or from in front of me. While in Sonar Gauranga Lane he ran ahead of me.

Did you see the accused in this lane?—Yes, I did.

You say that he had a chudder on him?—Yes.

You say that Ganga seized him by the chudder?—Ganga and Ananta held him.

By the chudder?—Yes.

Both at the same time?—Both of them were standing close to each other and while we were shouting out, "seize him, seize him" they made an attempt to seize him and both of them caught hold of the chudder.

They were before the man who was running?—When were shouting "seize him, seize him," they made an attempt and tried to catch him by the chudder.

Were they in front or were they not?—No, they caught him from behind.

From behind?—Yes, they caught hold of the chudder from behind.

Were they both side by side?—They were both together, but they were not side by side. They caught hold of the chudder from behind.

Then they must have been side by side?—No, they were standing on the side of the road and they caught hold of his chudder.

Were they side by side when they seized this man's chudder?—Thy were not side by side, they were behind.

Then if they were not side by side, how were they?—They stretched out their hands like this and caught the chudder.

Was one in front and the other behind?—They were there like this. Both of them stretched out

their hands simultaneously and caught hold of his chudder. Debi Gowala.

Was one in front and the other behind? If you don't know say so.—I have been telling you what I have been telling you. What else can I tell you?

I want an answer. Was the boy in front of the man or the man in front of the boy?—Ganga was in front.

Ganga was in front and the boy was behind him? —He was alongside. I cannot say whether the one was ahead of the other.

Did you see both catch hold of this boy's chudder? —Yes.

Then what happened?—The accused turned round like this and fired at him. Ganga sat down.

Fired upon him?—Fired at them.

Fired at both?—Yes, one man sat down and the other was hit.

Then they could not have been side by side. This is obvious?—I was fifteen paces behind. This is what I saw from that distance.

Then Ganga joined in the chase from there?—Yes, as the accused ran along Ganga joined in the chase.

And Radha Syam Singh, was he there in front?—He was there.

And the chudder was still on the man's shoulder? —I did not notice what happened to the chudder. From that time I cannot say whether it remained on his shoulder or not.

How far from the accused was Radha Syam Singh when the chudder was seized? Was he close behind?—I did not get the distance.

About?—I cannot say.

Very well, you followed this boy right into Aheereetola Street?—Yes.

You saw him the whole time?—Yes.

Debi Gowala. You never lost sight of him ?—No.

You picked up no chudder on the way ?—I did not pay any attention to the chudder.

You did not see any chudder ?—No.

You saw him turn into Upper Chitpore Road ?—I did.

And then into Musjidbaree Street ?—Yes.

And you saw him arrested there ?—Yes, when I arrived there, he had already been arrested

You arrived within a few seconds of his arrest ?—Yes.

Had he the chudder on when you arrived ?—I did not notice at that time whether he had the chudder on or not.

Did any conversation take place about the chudder after he was seized in Musjidbaree Street ?—

No there was no talk about the chudder.

No one mentioned the chudder ?—No.

No policeman ?—No one mentioned the chudder at that time.

Radha Syam Singh was not asked about the chudder at that time ?—No.

Has any question been put to any policeman about that chudder from that time to this ?—No one has made any enquiries from me.

Do you know of any enquiries made anywhere or any search made for this so-called chudder or alwan ?—Not to my knowledge.

You gave evidence before the Committing Magistrate ?—Yes.

Did you mention Ganga's name to him ?—No one asked me anything about Ganga and I did not.

Did you mention the incident about the boy being seized or an attempt being made to seize him by his chudder ?—No one asked me about it and I did not say.

Why did you keep this information back in the police court ?—No one questioned me. Debi Gowala.

Did you tell your story to any member of the police force before you went before the Magistrate ? —The day that the accused was arrested we made our statements to the police.

To whom ?—I made my statement to the Inspector Babu.

To Mohendra Babu ?—Yes.

Did you tell him that you saw Ganga and this boy attempting to seize the accused by his chudder in that lane ?—Yes, I did.

You swear that ?—Yes, I do.

Was that statement recorded ?—I don't know how to read or write. I cannot say whether it was recorded or not.

Did you see anyone writing down what you stated ?—Yes, I saw someone writing down something. I did not know what was being taken down.

Who was this someone who was writing ?—The Babu.

What Babu ?—The Inspector Babu.

Now you have told the jury that you saw an attempt to stop this boy by his chudder and that you were present and saw the pistol pointed at Ganga, about his stooping and the shot hitting the boy Ananta ?—I have all along been telling this.

Now, will you please listen to what the Magistrate has recorded. This is your statement : "Then we went into the Sonar Gauranga Temple Lane. There I heard another shot fired. When I ran up I saw the boy had fallen "?—No, I have all along been telling what I am telling you now.

I have read out what you said to the magistrate. I am now going to ask you a question ?—What I have been telling you now, I have been all along stating.

Debi Gowala.

Will you please listen while I read this out to you? This is what you said to the Magistrate: "Then we went into Sonar Gauranga Temple Lane. There I heard another shot. When I ran up I saw the boy had fallen." This is what you said and I am going to ask you a question. Do you wish to reconcile that story which you told before the magistrate with the story you have told the jury to-day?—I am making the same statement here as I made there.

Now I will take you into this last street—Musjidbaree Street. Who do you say was the man who actually first caught hold of the accused. Was it the coachman?—Monodutt Panday.

How far were you off then?—Radha Syam Singh, the Jemadar, Sri Dousadh and another man had caught him and then I arrived.

How far were you from Monodutt Panday when he seized the boy?—I did not see Monodutt seize him. When I arrived there he had already been seized.

Before you got into Musjidbaree Street, what did you see before you actually came up to the accused? —The accused had a pistol in his hand and he was running along with it.

Did you see him do anything with the pistol in that street?—I did not see him do anything in that street. He had the pistol in his hand.

I am talking about Musjidbaree Street?—I did not see him do anything in Musjidbaree Street.

All that you saw in Musjidbaree Street was that when you arrived he had been seized?—Yes.

And you cannot say by whom he was seized?—Yes, when I arrived there all these men were holding him.

When you arrived there, did you see the policeman's arms round his waist?—Yes, Radha Syam Singh had him by the waist.

Radha Syam had his arms actually round him? —Yes. Debi Gowala.

Monodutt also had seized him by his arm?—Yes.

That makes two sets of arms. Were there any more arms round him?—No, the Jemadar arrived and he also seized him.

I am not asking you that. Who had their arms round this boy: there were Monodutt and Radha Syam, who else? Were the whole of the police force squeezing him?—No, others did so.

Just give me the name of all the policemen that you saw present?—The Jemadar was there, Radha Syam Singh was there and Ram Bhajan Singh was there.

Were they there before you came up?—The Jemadar and Ram Bhajan had arrived before me.

Both of them?—Yes.

Had Ram Bhajan also his arms round this man? No he was holding the accused by his arm.

Can you tell me where these two men arrived from, Abdul Gaffur and Ram Bhajan?—I did not see them come, so I cannot say.

You never touched this boy yourself?—No, I took him into custody.

You went with him afterwards to the thana. Up to that time you never touched him?—Why not, I also touched him. I had hold of him.

Had you your arms round him, or what did you do?—I took him by his collar.

Now, that is all right. You earned your reward. This is what I wanted to get at?—Yes.

And you have been rewarded by the Government? —Yes, it pays the Commissioner of Police to reward me.

Debi Gowala. It pleases us to have to pay for it. How much did you get?—Rs. 750.

And you got that I think on the 26th of January?—Yes.

At the Parade?—Yes.

At which the Commissioner was present?—Yes.

And you were specially and personally rewarded?—Yes.

For having captured the murderer of Nripendra?—Yes.

Now what did you contribute towards it except by afterwards coming up and holding him by the scuff of his neck?—I was on duty at the point where the occurrence took place and I pursued the culprit from that point with a view to seizing him whenever I could get the opportunity.

Very well, you have been rewarded for unfulfiled intentions. You told us that whilst you were in Musjidbaree Street, Abdul Gaffur searched this boy's person?—Yes, I have said so.

You have put Ganga there?—There was a large crowd. I did not notice Ganga.

But you mentioned Ganga in chief as being one of the persons present?—I did not state that Ganga was there because there was a large crowd in Musjidbaree Street and I did not notice who was there or who was not.

Who actually put his hands into my client's pockets?—The Jemadar.

You said in chief just towards the end that Ganga seized the accused so he was there?—I did not say that Ganga had seized him in Musjidbaree Street.

Is it true that the pistols was found in my client's pockets?—No, it was found in his hand.

Is it true that no money was found on his person

except some pice? I did not notice anything about any pice. I did not pay any attention to that. Debi Gowala

I suppose a search list was made?—Yes, a search was made, but only these two cartridges were found.

Was a search list made then and there?—No list was made in that melee

There was a large crowd present?—Yes.

Were there no *bhadrolog* there?—I did not notice who were present—whether there were any *bhadrolog* among them.

Was the accused taken to the thana—Yes.

Where is the thana?—In Coomertolli and Sova Bazar.

How far from the junction where the occurrence took place?—I have not measured the distance.

Tell me by guess?—I cannot.

Is it a mile?—I do not know.

Is it half-a-mile?—I do not know.

Did you and Abdul Gaffur take this man to the thana?—Radha Syam Singh, Ram Bhajan, myself and Abdul Gaffur and others took him.

Then it is not true that you, Radah Syam Singh and Abdul Gaffur took this man to the thana? —No.

All of you took him to the thana?—Yes.

To whom?—The Inspector Babu who had met us at Beniatola. He came along with us to the thana. The Jemadar was holding the accused. We were also holding him.

I want to know whether you took him straight to the thana and handed him over to the Inspector?—We had met the Inspector on the way—on Chitpur Road—at the head of Beniatola and he came along with us to the thana.

When he reached the thana, was not a search made of the accused?—No, there was no search

Debi Gowala. made at the thana. The search had already taken place and what was found on him had already been made over to the Babu.

Now, come back once more to the tram car. You saw these two men getting out of two different compartments. Do you mean from two separate compartments in the same car or from separate cars ?--No, they were both in the same car. All three of them were in the first class. Did these two boys get out of the same or separate compartment ?--Well, I did not notice that.

Did you not state that they got out of different compartments ?--I did not notice that. I saw them get down from the car.

You said that of these two boys one came out from the compartment in front and one from the compartment at the back ?—I do not remember what I said.

But this was only an hour ago ?--No, I did not notice that.

I want you to tell me what you mean by that. Did they come out of different compartments or is it a mistake. If you tell me it is a mistake then it is finished ?--No, it is not a mistake. I did not notice at the time from which part of the car they came.

You said they came from two compartments, one from the front and one from the back. Do you mean the Inspector or the boy ?--I cannot say any thing with regard to that.

Then explain what you mean by making this statement on oath. What were you referring to ?--I do not remember.

But this is what you have said ?--I may have said so, but at the present moment I cannot recall it to my mind.

I want to know what you meant by it ?--I only say that they got down from the car. I cannot say anything more.

Did you see from which compartment these two boys got out?—I cannot say. Debi Gowala.

You cannot say whether they got out of one compartment or two different compartments? I did not notice that.

Can you tell me whether they got out of the same compartment as the Inspector Babu or whether they did not—No, I cannot tell.

Did you know this man Nripendro personally? —Yes, I knew him.

Had he orderlies always attending upon him?—I did not see any orderly.

I did not ask you that. I asked you whether you know that he had orderlies in plain clothes always with him?—Yes, he used to have orderlies.

And his orderlies were in plain clothes?—O, yes.

Now do you know whether he had orderlies in attendance upon him that night?—I did not notice at that time whether he had orderlies or not.

I am asking you now do you know whether he had orderlies in attendance upon him that night. Do you know now?—I have not heard anything about it.

Do you know any of the orderlies personally who have been in attendance upon him?—Yes, I know them.

Will you give me the names of any that you know?—I do not know their names.

Have you enquired whether any of these persons whom you know and whom you do not know were in attendance upon him that night?—I have not.

Re-examined by Standing Counsel: Between the place where you alleged the shot to have been fired and Beniatola Street are there any houses or shops? —Yes, there are houses and shops.

What is the class of people who inhabit these houses?—Shopkeepers.

Debi Gowala. And above on the first floor ?—Women live upstairs.

Abdul Gaffur. Abdul Gaffur Khan a head-constable of the Kumartoli thana, examined by the Standing Counsel, said that on the night of the 19th January last he had turned into Beniatola Street from Upper Chitpore Road. He was on his ordinary rounds. It was about 8 P.M. When in Beniatola Street, he heard shouts of "puckro," "puckro." He turned and saw a man running and another man chasing him. The man turned into Sonar Gouranga Temple Lane.

What did you do ?—I pursued him in order to seize him. (Witness identifies the prisoner.)

Then what happened ?—After he had proceeded a little distance, a man named Ganga and a boy named Ananta, twelve years old, tried to seize him. On that the accused fired a shot. Ananta followed him, Rada Sham, Debi and a Bengali police constable were with me. The accused ran along Raj Kishore Dey's Lane, Aheereetola Street and Chitpore Road into Musjid Bari Street where Mano Dutta Panday seized him. I arrived after the accused had been seized. Sree Doussad, a hackney carriage driver handed a pistol to me. I put my hand into the right-hand pocket of the accused and found two cartridges.

When did you first notice Debi Gowala at night ?—After we had secured the accused, Debi Gowala came up. (Witness then identified the pistol and the two cartridges.)

What did you then do ?—We took the accused to the thana. On the way I met Inspector Mohindra Nath Singh. I made over the pistol and cartridges to the Inspector.

Is there any truth in the suggestion that no revolver was found on the person of the accused in Musjid Bari Street at all ?—There is no truth in the suggestion.

Is there any truth in the suggestion that no cartridges were found in the pocket of the accused in Musjid Bari Street?—It is false. A. Gaffur Khan.

Cross-examined by Mr. Norton, witness said that he did not hear the sounds "puckro, puckro" from behind him when he was in Chitpore Road.

Mr. Norton: Is it true that when you first saw the accused, he was entering Sonar Gouranga Temple Lane from Chitpore Road?—No.

Did you make this statement to the Magistrate: "I was on my rounds at Upper Chitpore Road. I heard shouts of "puckro, puckro." Sounds were approaching. I saw a man running. He was the accused in the dock. I first noticed him when he turned into Sonar Gouranga Temple Lane from Chitpore Road'?—I did not.

Did you sign your statement in the Police Court?—Yes.

And you declared it to be true?—I may have done so.

How do you account for the fact that though you now say you never made that statement, it appears above your signature as correct?—What has been taken down, I cannot account for.

Is it true that you did not join in the chase until after you heard a gun shot fired?—It is not true.

Did you say this to the Magistrate: "I heard a gun shot first. Then I started chasing the accused"?—I did not.

Did you say this: "The report came from Sonar Gouranga Temple Lane. Then I started chasing?"—No.

If that appears over your signature, then the statement is false?—I never made that statement. Whatever statement I have made now, I made on that occasion as well.

A. Gaffur Khan.

Did you mention the names of Ganga and Ananta to the Magistrate?—No.

Why not?—Probably I could not recall their names.

What makes you recall their names to-day, the reward?—It is a question of memory.

On January 22nd, your memory was completely gone. On February 26th, it is completely fresh as if the event happened yesterday?—A man cannot always remember everything.

How was the attempt made to catch the accused?—By a black chudder he had on.

By whom was the attempt made?—By a carter named Ganga.

Had you known Ganga before that day?—Yes. He is living in my jurisdiction. I know every one in my jurisdiction. I have been there two years.

Do you know anything of Ganga's antecedents?—No.

Of his past life and character?—No.

Do you know that he is an ex-convict?—No.

Never heard of it?—No.

Never heard that he was an old convicted thief?—No.

Is it not part of your duties on your rounds to keep an eye on old convicts?—Yes.

Was his name given you in this private list?—No.

Witness then described the attempt made by Ganga and Ananta to seize the accused and said he did not mention it before the Magistrate as he was not questioned about this.

Have you received *buksis* from the Government for this very transaction?—Yes, Rs. 750.

On January 26th last?—Yes.

Having given evidence on the 22nd?—Yes.

A. Gañur Khan.

For what did you get this reward? What have you done in the interests of justice?—It was the pleasure of the Government. I did not beg for it.

But you took it?—Yes.

It was given by the Commissioner of Police at the public parade?—Yes.

And you were specially called up to receive the honour from the Commissioner?—Yes.

And were told you got it for having arrested the murderer of Nripendra?—Yes.

The Court then adjourned for lunch till quarter-to-three o'clock.

On the Court re-assembling, the cross-examination of head constable Abdul Gaffur Khan, by Mr. Norton, was resumed. He said he did not see Mano Dutt seize the accused. When he arrived, Mano Dutt was actually holding the accused by the waist.

What was the first that attracted your attention when you arrived in Masjidbari Street?—That the same man I had been pursuing had been caught.

What made you come to that conclusion?—I had seen the accused before. I had first noticed his features under a gas-lamp in Beniatola Street.

That gas-lamp is on the northern side of Beniatola Street?—Yes.

Where was the accused?—He was coming running.

Where were you?—I was to the west of that.

What made you turn round to see this man's face?—I heard shouts from behind of "seize him, seize him" and I turned round.

Had he got his head down?—He was not stooping much. He was in a hurry. I recognised his features under the gas-lamp.

Although he was in a hurry, his features were so prominently imprinted on your mind that you re-

A. Gaffur Khan.

cognised him later when he was caught as the man you had been pursuing? —Yes.

Had you ever seen him before ?—No.

Witness next said that as soon as he laid hold of the accused, Sree Dousad handed the pistol to him. He did not see Sree Dousad snatch the pistol from the accused.

Did you tell the Magistrate this : "When we got to Musjid Bari Streat, Mano Dutt caught the accused and Sree Dousad snatched the pistol from him"? —I don't remember. I arrived four or five minutes after the arrest.

Then you could not have seen the pistol being snatched from him ?—I don't remember.

If you arrived four or five minutes after the arrest, you could not have seen the pistol being snatched from the accussd ?—It had been snatched away by Sree Dousad, who made it over to me.

You did not see Sree Dousad snatch it from the accused ?—No.

From the time you first saw the accused to the time you saw him in the clutches of Mano Dutt, you never lost sight of him ?—No.

Will you kindly explain to the jury how you account for the interval of five minutes ? You arrived five minutes after he was arrested. Where were you ?—I had no watch with me. Five minutes is the time I have given by guess.

You said the accused had on a black chudder ?—Yes.

Did you see him throw it away ?—No.

Did you see any one take it away from him ?—No.

When he was arrested, he had no chudder on him ?--No.

Did it not strike you as somewhat odd ?—As he

was running along the road, there was no knowing whether he dropped it on the way or threw it away. A. Gaffur Khan.

Witness next said that this was the first time in his life he had seen a pistol. He was about sixty years of age and had never seen a pistol before.

Witness was then re-examined by the Standing Counsel.

When the accused turned into Musjid Bari Street from Upper Chitpore Road, how far off were you from him ?—Ten or twenty paces.

Mano Dutt Panday was next called by the Standing Counsel. He said he was a hackney carriage owner and lived at 164, Musjid Bari Street. His stable was also there. He knew the *pan* shop of Debi which was 20 yards from his place. At 8 o'clock on the evening the Inspector died, witness was at this *pan* shop. He heard shouts of "seize him, seize him." Shortly after a man entered Musjid Bari Street. M. D. Panday

Can you recognise the man ?--Yes. (Identifies the accused in the dock).

What happened then ?--Sree Dousad, a ticca gharry driver, was waiting on the stand for hire. The driver made a rush to catch the man, who pointed a pistol at him. The driver sat down through fear and the man proceeded along. When the man came in front of me, I seized both his wrists and pressed him against a wall of the shop.

What happened to the pistol ?--Sree Dousad came up and snatched the pistol from the man.

Then what happened ?--A constable in plain clothes came up and arrested the accused. That was two or three minutes after I had seized the man. Sree Dousad came up first and close behind him came the constable. After that Abdul Gaffur the head-constable, arrived and searched the accused. Sree Dousad made over the pistol to Abdul Gaffur.

M. D. Panday Was anything found on the accused ?—Two cartridges were found in his right hand pocket. The accused was then taken to the thana.

Cross-examined by Mr. Norton, witness said he had lived in that neighbourhood twelve or thirteen years. Women of the town also lived there. No *goondas* lived there. He was not a *goonda*. He had never stolen anybody's watch.

I put it to you that you stole the accused's watch that night ?—No.

Or that Sree Dousad stole his watch ?—No.

You know the police ?—No.

You got a reward ?—Yes.

And the police got it for you ?—No. I laid hold of the accused and the Government gave a reward.

How much did the Commissioner give you ?—Rs. 750.

For what ?—For arresting the accused.

And did the Commissioner tell you the reward was for arresting the murderer of a police officer ?—No, he told me the reward was for assisting the police.

Witness then said that that was the first time he had seen a pistol.

How did you recognise it was a pistol ?—I had heard people give a description of a pistol. I am about thirty years of age. I have seen a pistol once.

Where ?—In the Museum.

When was that ?—Four or five years ago.

And you at once recognised this as a replica of the one you had seen in the Museum ?—Yes. When I saw a man running, I felt it my duty to arrest him, even though he fired at and killed me.

And you were determined to die in the defence of your country or the defence of the police, if necessary ?—Yes.

With that resolve you rose to meet death ?—Yes.

In fact, you rushed on death ?—Yes, I caught him by his elbows. M. D. Panday

Then it is not correct that you seized him by the wrists ?—I did not say so.

How long did you have hold of the accused before he was arrested ?—Three or four minutes.

Was any search made in your presence ?—Yes. Abdul Gaffur searched the accused in my presence.

Continuing, witness said that Sree Dousad and he lived in the same house. Sree Dousad was his coachman.

That night did you see any policeman put his arms round the accused's waist after you had caught him ?—After I had caught the accused, a man in plain clothes came up and seized both the accused's arms in front.

But you were at that time holding him ?—When the plain-clothed man came up, I slackened my hold and he seized the accused.

Did you tie the accused's hands ?—No, they were not tied in my presence.

Did you go to the thana ?—Yes, about an hour and a half later.

In your presence no one tied the accused's hands with a green chudder ? --No.

Had the accused on a black chudder when you caught him ?—No.

When you went to the thana that night, did you see the accused ?—Yes.

Did he not complain to the police that he had been robbed of his watch, money and ring ?—No, not in my presence.

Do you know Ganga ?—No.

Re-examined by the Standing Counsel, witness said that when the accused pointed the pistol at Sree Dousad, witness was ten or fifteen paces away.

The Court then rose for the day.

THIRD DAY

FRIDAY, 27TH FEBRUARY, 1914

Sree Dousad.

Sree Dousad examined by the standing counsel—He said he was a hackney carriage driver. He resided at 164, Musjid Bari Street. He knew the *pan* shop of Debi Barih. The shop was twenty or twenty-five paces from the stable. He remembered the evening the Inspector died.

On that evening at about 8 o'clock, where were you?—I was standing at the carriage stand in Musjid Bari Street. That was the point where Musjid Bari Street enters Chitpore Road.

What happened?—I heard shouts of "Seize him," "Seize him," coming from Upper Chitpore Road. I saw a man running along. He was followed by a large number of people. I attempted to catch the man. He pointed a pistol at me and I sat down. After he had advanced a little, Mano Dutt Panday threw his arms round him and seized him.

Was it a pistol like this? (shown)—Yes.

What happened then?—I shouted out, "Catch him." Mano Dutt pressed the man against the wall of the *pan* shop. I went up and snatched the pistol out of the man's hand.

Do you see that man here?—Yes. (Points to the accused in the dock).

After that what happened?—A constable in plain clothes came up and laid hold of the accused. Subsequently a jemadar came up. I made over the pistol to the jemadar. The accused was searched and two cartridges were found in his pocket.

Were those two cartridges like these (shown)?—Yes. Sree Dousad.

Then what happened to the accused ?—The jemadar and police constables took the accused to the thana.

Cross-examined by Mr. Norton, witness said he did not know how to use a watch. There was no clock there.

How do you fix the time at which this occurrence took place ?—I was waiting there for a fare.

How do you know it was eight o'clock ?—We wait there with our carriages and wo have an idea of the time. It was about 8 o'clock.

You cannot give me any other reason for fixing the time at 8 o'clock ?—No.

You gave evidence on the 22nd in the Police Court ?—Yes.

Before that you discussed this question with the police ?—No. On the day of the occurrence I went to the thana and made a statement to the police there.

That night was any reward offered to you by the police ?—No.

Have the police ever offered you any reward ?—No.

Have you received any reward from the police ?—No.

You got Rs. 750 ?—Yes.

From the police ?—No.

Who gave it to you ?—The Commissioner of Police. It was given to me at a parade on the Maidan near the Queen's statue. We went from the thana.

Who told you to go there ?—The Inspector.

Mahendro Nath Singh ?—I don't know his name. On the previous evening he told me I would have to attend the parade the next morning.

Sree Dousad. What time did he tell you this ?—I did not notice the time. I don't remember the time.

Witness next said on the morning of the day he went to give evidence in the Police Court, a jemadar came to him. He did not know the jemadar's name. The jemadar took Mano Dutt Panday and him to the Police Court. The statement that he made at the thana on the night of the 19th was recorded by Inspector Mohendra Nath Singh. Witness did not sign the statement. It was not read out to him. He told both the inspector and the Magistrate everything he knew.

You are an old friend of Abdul Gaffur ?—No.

You knew him sometime ?—I recognise him on the beat. He may know me. I have never spoken to him.

Have you ever been convicted ?—No.

Have you ever been to Burdwan ?—I was going to my native village and had to pass Burdwan. I had my wearing apparel and there was some suspicion.

Suspicion about you, or your wearing apparel, or both ?—I had my wearing apparel and a watch and the police suspected me.

Were you not tried at Burdwan for being in possession of stolen property ?—No. There was no case against me.

Mr. Justice Stephen ; Were you tried and discharged ?—No. Enquiries were made and I was let go.

Mr. Norton : In the meantime you were in charge of the police ?—Yes.

How long ?—Ten, twelve or fourteen days.

How long ago was this interesting experience with the police ?—I cannot remember.

You were under suspicion in Calcutta on a similar

charge within the last year of eighteen months ?—No, never. Sree Dousad.

Whose watch had you when you were arrested at Burdwan ?—Mine.

You told me just now you could not read a watch. Was it a presentation watch or a durbar watch ? Where did you get it from ?—A coachman gave it to me. He sold it to me for Rs. 3. It was not gold or silver. I did not learn to read it. I have not got it. I have lost it.

Have you got another watch ?--No.

You stole the accused's wrist watch on the evening of the 19th ?—No.

You also stole his ring ?—That is false.

And you further stole Rs. 3 from him ?—No.

Did the accused complain to the police that he had been robbed of his watch, ring, and money ?—I did not hear him complain.

Continuing, witness said the first time he saw the pistol was when the accused pointed it at him. He was frightened and sat down.

Did anybody tie the accused's hands in your presence that night ?—Yes. I don't know whether he was a policeman or not. He was in plain clothes. The accused's hands were tied with a green cloth. I don't know where the cloth came from.

When you tried to seize the accused, had he a chudder on ?—I did not notice.

Debi Barhil was next called by the Standing Counsel. He said he had a *pan* shop in Masjid Bari Street. He remembered the evening the Inspector died. That evening he was in his own shop. He knew Mano Dutt Panday, who was standing in front of his shop. Debi Barhil

What happened that evening ?—I heard cries of "thief, thief" in Upper Chitpore Road. A man was being chased by a crowd of people. At the head of

Debi Barhil. the lane, was a ticca gharry waiting for hire. Sree Dousad was with the gharry. He ran up to catch the man. The accused pointed a pistol at Sree Dousad who sat down. The accused ran along and Mano Dutt Panday seized him and pressed him against my shop.

Do you see that man ?—Yes. (Identifies the accused.)

Then what happened ?—A constable in plain clothes came up running. (Identifies Radha Sam.) He laid hold of the man by the waist.

Do you know Jemadar Abdul Gaffur ?—Yes. He also came there. He came up close behind the plain-clothed constable.

What happened to the pistol ?—Sree Dousad who had snatched the pistol from the accused, made it over to the Jemadar who searched the accused. The accused was then taken to the thana.

Cross-examined by Mr. Norton, witness said he had never told any body that sitting as he was in his shop he could see a man running along Chitpore Road, from North to South.

Have you given evidence in this case in the Police Court ?—Yes.

You cannot write ?—No.

You made a thumb impression in this case ?—Yes.

That the statement you had made was true ?—Yes.

Did you make this statement to the Magistrate ; "I saw a man running from North to South followed by a crowd shouting out *chour chour*"?—No. My statement was that a man was running along Chitpore Road from north to south and that a crowd was following him shouting out.

But you have just told us that sitting as you were you could not see a man running along Chit-

pore Road from north to south ?—I did not say I did not see him. I could see. Debi Barhil.

Sitting in your shop facing west, you could see a man running along Chitpore Road from north to south ?—Yes

Have you ever been convicted for being drunk and disorderly ?—No.

Not once ?—No.

Is it false that you were ever so convicted ?—Yes.

Since January 19th last ?—Not at all.

Did Sree Dousad attempt to snatch the pfstol from the hand of a running man ?—He made an attempt to catch the man.

Did you see him make an attempt to snatch the pistol from the hand of a running man ?—No, I did not. He made an attempt to catch the man.

Did you tell the Magistrate this : "Before Mano Dutt arrested the accused, Sree Dousad wanted to snatch away the revolver from the accused. Sree Dousad sat down. The accused proceeded further and was arrested" ?—No, I did not.

Did you see the accused before he was caught by Mano Dutt ?—Yes. As he was running along the road I saw him.

What happened when the accused turned into Musjid Bari Street ?—On seeing the accused, Sree Dousad got off the masonry platform on which he was standing, ran up in front of him and tried to catch him. The accused pointed a pistol at Sree Dousad, who sat down in front of the accused.

So that the accused had to stop over his body ?—The accused avoided him and ran along.

How far did the accused run before he was caught ?—About 15 or 20 yards.

Continuing, witness said that after Mano Dutt seized the accused Sree Dousad came up and snatch-

Debi Barhil. ed away the pistol from the hand of the accused. A constable in plain clothes then came up, followed by a Jemadar and others. The accused was then arrested, Sree Dousad made over the pistol to the Jemadar.

What happened then?—A man tied the accused's hands with a green wrapper.

Did you ever tell that story before to any one about the accused's hands being tied with a green wrapper?—No.

Why not?—Because you are now asking me.

I never asked you. I merely asked what happened?—When you asked me if any body else came up, I told you this.

From what direction did the man who tied the hands of the accused came from?—From the same direction as the others.

He came from among the crowd?—Yes.

Did he also put his arms round the accused and hug him?—Yes.

Janki Ram. Janki Ram was then examined by the Standing Counsel. He said he was a flagman in the Calcutta Tramway Company. He remembered the night a Babu was shot. He was on duty at the Sova Bazar Street, Grey Street and Upper Chitpore Road crossing. He saw a Belgatchia tram coming. Three Babus alighted from that car. He then heard a report. He turned round and saw two Babus firing pistols at the other Babu.

Can you identify either of these two men who were firing?—Yes. There is one there. (Points to the accused in the dock)

Then what happened?—One of the Babus fell down and the two men commenced running away towards the south. I saw the accused that very night at the thana, when I was taken there.

Cross-examined by Mr. Norton, witness said he was taken to the Alipore Jail. He was not taken

to any other jail. He was taken to the Alipore Jail by the Inspector Babu. Janki Ram

Any European officer ?—This Saheb was there (points to Mr. Lowman). I was taken to the Alipore Jail only once. I was taken there to identify a man.

Was only one man shown to you or more than one ?—Many. I was giddy and I identified the wrong man.

Who told you it was the wrong man ?—Nobody told me. On the night of the occurrence I saw two men. One man was arrested and I was taken to the jail to identify the other man. I went there in the day.

I was giddy. In trying to look for this man, I identified the wrong man.

Who told you he was the wrong man ?—Nobody told me.

Then how do you know it was the wrong man ?—I could not identify any body. It was some other man who identified him.

Then somebody else identified him ?—Yes.

Who was this other man who identified him ?—Pahlwan. I don't know his name. I know him as Pahlwan. Five or six men came there. (Identifies Gulam Nabi Pahlwan.)

What time did you go to the jail ?—At 10 o'clock in the morning.

Why did you feel giddy ?—I was in the sun.

Witness then said he had to be on duty at the cross road.

Is it not your business to be on duty at this stopping station at the right hand side of Chitpore Road just under the gas-lamp ?—There are two signboards, one showing the stopping station and the other the points. I was between the two. We re-

Janki Ram. mained near the picture-shop on the west side of the road.

Do you mean to say your place is on the pavement near the picture-shop ?—No, I have to stand in the middle of the road.

The Court : What are your duties ?—I have to show a flag in the day and a light at night that line is clear.

In order to do that, have you to look towards Grey Street ?—Yes. I watch the Belgatchia and the Chitpore lines.

Mr. Norton : You said you saw three Babus alight from the car. Had the car then stopped ?—The car was moving. It was turning into Grey Street. It was on the curve.

Had you known any of these Babus before?—No.

Did you know that one them was an Inspector ? —No.

There was nothing in their appearance to attract your attention ?—No.

Witness then said he was nearer Grey Street than the Babus. He was looking south.

How far were the Babus from you, when they alighted ?—Quite close. About fifteen feet.

Did they all descend at the same time ?—Yes.

You know now that one of them was an Inspector ?—Yes.

Who alighted ?--The Inspector ? The other two came from the trailer car.

Then there was some little distance between them ?—Yes.

And the Inspector began to walk ?—Yes. Then there was a report.

The Inspector began to walk towards the west, Sova Bazar Street ?—Yes.

How far had the Inspector walked before you heard a shot ?—Three or four paces. Janki Ram.

And the two boys were behind him ?—Yes.

As the Inspector got off the car he was turning sideways to you ?—Yes, his right side was turned towards me.

And so also the two Babus ?—Yes.

You were not looking at them when the first shot was fired in consequence of that turn ?—That is so.

And after you turned, you heard two shots fired ? —I saw each of the two Babus fire one shot.

And one shot was fired by the accused ?—Yes.

How far was he from the Inspector when you heard him fire ?—About 15 or 16 feet.

Was he in front of the Inspector or behind him ? —Behind.

Where was the other Babu ?—I noticed him near the tailor's shop. That is the shop in Chitpore Road which is the first towards Dhurrumtolla. It is on the west side.

When you saw the other Babu fire, where was he? —He was in the front of the tailor's shop.

That is towards the east ?—He was facing towards Dhurrumtolla. The shots were fired in quick succession and after that I saw the two men running away.

The Court : When you saw the other Babu fire the shot, was he on the pavement or in the roadway? —In the roadway.

Can you say how far he was from the tram lines? —A short distance.

Mr. Norton : How far ?—15 or 16 feet.

And he was facing east ?—Yes.

After the other two shots were fired, the Inspector fell ?—Yes.

Up to that time he was standing upright ?—Yes.

Janki Ram. The two Babus ran away ?—Yes.

All that time you were standing still ?—Yes.

You were paralysed by fear by this unfortunate occurrence ?—I was frightened.

You made no attempt to chase these men or catch them ?—I did chase them about ten paces.

Then it is not true whilst you were there that after the Inspector had fallen, any one came up and fired into his body ?—No one fired at him after he fell.

It is not true that the Inspector fell after the first shot ?—I cannot say that. A shot was fired before the Babus left the car.

Did you swear that to-day ?—Yes.

After the Inspector descended and before the Babus descended from the car, there was a report from the car ?—Before they descended from the car there was a report.

And that report came from the trailer ?—Yes.

After that shot was heard what did you see ?—I turned round and saw the two Babus firing pistols at the Inspector. I saw the Babus on the ground.

After the first shot had been fired from the car?—Yes.

Is that the story that you told Mr. Mitter in examination-in-chief ?—Yes.

Is that the story you told the Magistrate ?—Yes.

From the moment you saw the Inspector alight till the two men ran away, how long did it occupy ? —A minute or a minute and a half.

The Court: How do you know a shot was fired from the tram car ?—I did not see it fired.

Then why do you say it was ?—I only heard a report.

Mr. Norton: The shots came in quick succession ?—Yes.

Continuing witness said: It was after the jemadar and others brought the accused in custody that I recognised him. I had seen him a little when he fired at the Inspector. When the accused was arrested, I did not see the pistol with him. I saw the pistol with the Inspector at the thana. Janki Ram.

The Court then rose for lunch.

On re-assembling, the further cross-examination of the witness by Mr. Norton was continued in the course of which he said that four or five days after the occurrence he was taken to the Alipore Jail.

Mr. Norton: Did you see the police the day following the occurrence?—No.

Did you see the police before you went to the Police Court:—No.

How was the missing man dressed?—In a yellow cloth.

How was the accused dressed?—He had on a black chudder.

When you saw the accused at the thana, had he on the chudder?—No.

Baram Debi Mochi, a khalassi in the employ of the Calcutta Tramways Company at Sova Bazar, who was on duty on the night of the 19th January last, was examined by the Standing Counsel. He said that on the night in question a car to Belgatchia came up to the point and he put on the points and went to Janki flagman. When he was about four paces from Janki, he heard one report and then two or three more reports. The police then cried out "the Babu is murdered, catch the man." He saw the accused running towards the south. He identified the accused as the man who was running that night. He saw the accused again that same night when he was taken to the thana. Baram Debi Mochi.

Cross-examined by Mr. Norton, witness said he saw the car taking the turn. He did not see any-

Baram Debi Mochi.

body alight from the car when it was turning. The car was in motion and he did not pay any attention to it. He did not see anybody near the car. He only heard a report. After he heard a report and the accused was running away, he saw a man lying on the ground. He saw nothing else. He did not see the accused firing at the Babu. When he heard the report, the accused was far away from him and was running fast but not stopping down. The accused had something black in the upper part of his body.

Mr. Norton: Had he any pistol in his hand?—I did not see anything else.

Witness next said he heard four gun shot reports in quick succession. He did not tell the Magistrate that the accused was the man whom he saw firing. He and others were taken by the police to the Alipore jail to identify one man. Before that he did not tell the police that he saw two men firing. He did not know why he was taken to identify the other man. At the jail a large number of men were seated. He was asked if "that man" was there. He told the police he had not seen "that man" and how could he identify him?

Janak Singh.

Janak Singh, a conductor in the Tramways Company, was next examined by the Standing Counsel. He said that on the night of the occurrence he was in the car in question. He was the conductor in the first class car. He saw the Inspector in his car. He went to the Inspector who had a pass. At the junction the Inspector alighted, and three or four more persons got down. He heard a report and then two other reports. He looked round and saw a man lying on the ground and another man firing at him. The man who had fired ran away. The accused was the man who fired.

Cross-examined by Mr. Norton, witness said that a man alighting at the junction would face towards

the right, having Sova Bazar Street on his left. After the second report, a man fell down. He told the Magistrate that he saw a man fall down after the third report. That statement was not correct. He did not see any one firing the second shot. He could not say whether the accused was in the car. He saw the accused firing. He was taken to the Alipore jail with the other witnesses and the Inspector and Mr. Lowman who identified the man who had been arrested. He could not identify the man. When the third shot was fired, the man who fired was about six yards from the Inspector. The car was full then. Janak Singh.

The Court then rose for the day.

FOURTH DAY

SATURDAY, 26TH FEBRUARY, 1914

F. Walker. Mr. Frederick Walker, Deputy Commissioner of Police, First Division, examined by the Standing Counsel.

On January 19th last did you receive any information in the evening ?—Yes.

How did you receive that information ?—By telephone.

Where ?—At Jorabagan.

About what time did you receive that information ?—About 8-15.

In consequence of that information did you go anywhere ?—Yes, I went down to the Sova Bazar and Chitpur Road crossing.

How long after receipt of that information did you start ?—Immediately after.

How did you go ?—By motor cycle.

How long would it take you to go from the Jorabagan thana to the Sova Bazaar Crossing ?—About 5 or 6 minutes.

What did you do there ? Did you do anything ?—When I arrived there, the body of Inspector Nripendro—

Mr. Justice Stephen : When you arrived there, what did you see ?—I saw bloodstains on the road and a *gharry* in which I was told Inspector Nripendro Nath Ghose's body was.

Standing Counsel : You were told that the Inspector's body was in the carriage ?—Yes.

Did you see it ?—No.

How long did you wait there? —Quite a short time, a very short time indeed. F. Walker.

Then did you go from there to any place?—I went to the Kumartoli thana.

How did you go?—I cycled down.

Mr. Justice Stephen: What is the name of the thana?—Kumartoli.

How long were you there?—I should say about three-quarters of an hour, or an hour. I have no idea.

Did you see any of the witnesses that evening? —Yes.

Whom did you see?—There were several witnesses in the thana at the time.

Do you recollect their names?—Yes, there were Ram Bhujjan Singh, Debi Goala, Radha Syam Sing, Gaffur Khan and several others, I will give you another one, Ganga Teli.

Did Ram Bhujjan say anything?

Mr. Norton: I submit this is not evidence. It is a conversation among police officers.

The Standing Counsel: In the first place the accused was present, but this is not the point. My point is that my learned friend has suggested that Ram Bhujjan Singh was never there, and that he was examined long after; am I not entitled to place this before you?

Mr. Justice Stephen: You have got it that Ram Bhujjan Singh was there. Is not that enough for you?

The Standing Counsel; But am I not entitled to get a little more as to in what connection he was there? Of course what took place between—

Mr. Justice Stephen: He was there among the witnesses, why do you want more?

F. Walker. The Standing Counsel: Very well, my lord. (To witness). You said that Mohendranath Singha pointed out to you two cartridges and a revolver, which was lying on a table?—Yes.

Did you ascertain from Mohendra where the revolver came from?—He said that the revolver and cartridges had been found in the possession of the accused.

Where was the accused?—He was in the thana.

Did the accused say anything to that?—Nothing. He never spoke to me.

Did you see another man of the name of Jiten? —Jitendra Nath Mookerji you mean.

Yes?—He is Junior Sub-Inspector.

Did he do anything?—Yes, he took down the list of witnesses.

Did you go the next day to the Lall Bazar thana?—Yes. Not the next day,—no.

I mean to the Commissioner's office?—No.

The day after?—The day after, yes—the day the case was tried.

That is the 21st?—Yes.

I did not mean the Police Court; but the Commissioner's Office?—I beg your pardon, yes I did.

On what day did you go?—On the 20th.

Now you saw Ram Bhujjan on the 19th. When next did you hear his name mentioned in connection with this case?—In the Commissioner's Office on the 20th.

We have heard a lot of cross-examination in this court with regard to a certain identification that took place in the Alipore jail some three or four days after?—Yes.

Do you know how that identification came to be held,—in what connection?

Mr. Justice Stephen: Do you know, in the first place?—Yes, I do. F. Walker

Standing Counsel: In what connection did it take place?—When the evidence before the police was that there were one or two persons more.

I don't want you to give what the evidence was. I mean, was it in connection with this case or another case?—In connection with this case.

Now let us hear in connection with what?—Well, the evidence before the police was that with this accused there were one or more others. This accused made a statement to the police.

Standing Counsel: Don't tell us what he said. You are not entitled to.—

Witness: He made a statement implicating—

Standing Counsel: You cannot say that, you can say in consequence of that you did something.

Mr. Justice Stephen: In consequence of that did you do anything?

Witness: We held a parade in the Alipore jail.

Standing Counsel: A parade of a quantity of persons?—Yes.

Did you go inside the jail?—No.

Mr. Justice Stephen: Was the parade outside the jail?—Yes.

In the compound?—I imagine so.

Standing Counsel: Did any European Officer go with you?—Mr. Lowman went with me.

And any Indian Officers?—Yes, Mohendra Singha was there. That is all I remember.

Standing Counsel: When you went to the thana what took place?—I went into the thana and I saw the accused in the thana, and Inspector M. N. Singha and while I was in the thana he handed me a revolver.

F. Walker. Who did ?—The Inspector. As a matter of fact he did not hand it to me, but he pointed out the revolver to me.

Where was the revolver ?—On the table.

Did you see anything else ?—There was an envelope containing two cartridges.

Did you examine the revolver ?—Yes.

What did you find ?—I found that it was a five-chambered revolver, with two cartridges exploded, one a miss fire and two loaded ones.

Mr. Justice Stephen : There was one miss fire. What was its relation to the two exploded cartridges ?—Well, a bullet was in it.

But was it before the fired ones or after them ?—I think I can give the order in which they were.

Were these three cartridges together, the miss fire and the other two loaded ones ?—No.

Can you remember what the order was ?—I would not be quite certain.

But they all came together in the chamber, or were they separate ? Separate. There was, I think, one exploded cartridge, one loaded cartridge, and then an empty cartridge, then a miss fire, then another loaded one. I think this is the order.

The Standing Counsel : Now just look at this open chamber. Don't drop anything.—

Mr. Justice Stephen : There is a piece of paper in which it is wrapped up.

Standing Counsel : Just tell us the order in which the cartridges are now. There are two loaded ones, two exploded enes and a miss fire. We will find out how they came in that order, but let us have the order in which they are ?—Two exploded ones, a miss fire and then two loaded.

Mr. Justice Stephen : That is how it is here. We will find out how it came like that. I don't think anything turns upon it.

The Standing Counsel: How did it come like this?—I don't know. F. Walker.

Then you have no clear recollection of the order?—No.

Did you examine the revolver?—Yes.

Mr. Justice Stephen: Was there any mark or number on the revolver?—I could not tell you. I did not look for a number.

Do you know the maker's name?—I cannot tell you. It looks like a Webley.

But there is no name?—I don't think so. I did not look for the name.

Will you look for it now?—Yes, I see no name.

Mr. Justice Stephen: That is what I think. It does not matter.

The Standing Counsel: Now, look at the revolver. Was it at that time in the same condition as you see it in now, except that the chamber has been taken out?—Yes.

Then you said you saw two cartridges in an envelope?—Now, just look at these.—I did not examine the cartridges. I only felt that there were two cartridges.

Roughly, can you tell me about what time you got to the thana?—I should think, shortly after half past eight.

Was any complaint made to you by the accused that his wrapper, wrist watch and some money had been stolen from him?—No, not at all. He never spoke to me.

Was any complaint made to you, that the police had surreptitiously introduced the revolver and the two cartridges?—None whatever.

You were the first European to arrive at the thana?—Yes.

Did you examine the revolver to ascertain or see if it had been recently used?—No.

F. Walker.

Then what happened after that? You saw Mohendra Singha was there, you saw the pistol, and you saw two bullets in an envelope. Then what took place?—I sent Inspector Singha out to make enquiries.

Sent him out where?—Well to the place of occurrence, I suppose.

To make general enquiries?—Yes.

Regarding what?—For witnesses, and that sort of thing.

Mr. Justice Stephen: You asked something to the witnesses and we cannot have what they said. It would be like this. Did you see any of these men, A, B, C etc., that is what we cannot have.

Standing Counsel: No, but I submit we are entitled to have the particular purpose for which they were taken, that is to say to identify.

Mr. Justice Stephen: You are entitled to have the intention of the police officer.

Standing Counsel: No, but they are making suggestions as regards the conduct of the police officers, namely, that having identified one man the same man is taken there.

Mr. Justice Stephen; I did not understand, to tell you the truth, what their suggestion was.

Standing Counsel: That is what I gather. It is with reference to whether it was the same matter that they were taken or a different matter. That is the object with which I am putting this question. I submit that I am entitled to have it. If your Lordship rules against me, there is an end of it.

Mr. Justice Stephen: What is your question?

Standing Counsel: For what purpose was this identification?

Mr. Justice Stephen: I disallow that question.

Cross-examined by Mr. Norton.

Do you remember giving evidence before the Presidency Magistrate?—Yes. F. Walker.

You can take it from me that it was on January 22nd. I think you will agree with me that your examination was very much more brief there than it has been here to-day?—Yes.

And all that you said in the Police Court may be summed up in seven lines. (Deposition put to witness). It is short, Mr. Walker?—Yes, this is the one.

May I take it that before you were put into the box to-day, your attention was called to statements which were deposed to here, and which you did not depose to in the Magistrate's Court?—Yes, it may have been so. Would you mind repeating that?

May I take it that before you came into the witness box to-day, your attention had been called with reference to the substance of the evidence, with reference to which you have given testimony here to-day, and with reference to which you have not given evidence in the Police Court?—Yes.

Before you gave your evidence in the Police Court had you made a statement to any body?—No.

I think you were examined by Rai Saheb Tarak Nath Sadhu before the Magistrate?—No, I don't remember that.

Do you remember who examined you?—Nobody.

In Court, was not Rai Saheb Tarak Nath Sadhu the one who examined you?—Yes.

Who examined you?—Rai Saheb Tarak Nath Sadhu.

Had not he got a statement of yours upon which he examined you?—No.

Before he examined you in the box, did he have a conversation with you in regard to the case?—No, I don't think so.

F. Walker. I heard you say, and it is the first time that I hear it—please don't tell me what it was because we have challenged it—that in consequence of some statement the identification parade was held?—Yes.

Was that made to you?—No.

Was that made in your presence?—No.

Whatever he was supposed to have said was repeated to you?—I saw a copy of his statement.

You did not hear what he said?—No.

You must have got it from another source either by writing or by voice?—By writing.

Whose writing?—Mr. Lowman's (identifies him).

Did you speak to Mr. Lowman about it?—Yes.

THE STATEMENT TO MR. LOWMAN.

Did he tell you that it was recorded by him direct from the accused?—I asked him. It must have been.

May I take it that you do not know to whom that statement was made?—I was told.

Who told you?—Mr. Lowman.

He told you that it was made to whom?—That it was made to him.

To Mr. Lowman himself?—Yes.

Did you ask him when it was made?—No.

On what date do you say you saw this paper?—I cannot tell you. Shortly after.

Can you fix the date of the parade at the Alipore Jail?—I cannot.

Take it backwards from the parade behind the Queen's statue? How long before that?—I do not remember.

This took place on the 26th?—Yes.

You cannot say how long before the 26th it was?—No, I cannot tell you.

Where were you when you first heard the message on the 19th?—At the Jora Bagan thana. F. Walker.

Will you kindly tell us where it is?—In Nimtollah Ghat Street, just off Beadon Square.

From there did you go straight to the actual scene of occurrence,. to the tramway crossing?—You mean the Sova Bazar crossing, yes.

Just take this plan, Mr. Walker: I suppose you have seen this already?—No.

I don't know where the original is, but this is a tracing. You see where the tram curves into Grey Street. Where did you stop your bicycle?—At the crossing.

Whereabouts?—I cannot tell you exactly.

About?—On the west side just before you get to the crossing. Just about where you have the mark D.

Just put yourself standing at D. Whereabout did you see traces of blood?—On the south side.

The body was not there, when you got there?—The body was in a gharry at the crossing. It was not on the street.

Did you ascertain who had actually removed the corpse?—No.

Can you say who else saw the posture in which this man was lying?—No, I did not enquire.

How long were you at that spot?—A very short time indeed.

About five minutes?—About five minutes.

After that you went to the thana?—Yes.

Am I right in saying that it is in Sova Bazar Street?—It is in Sova Bazar Street, on the north side.

How far from the entrance into Chitpore Road?—I should say about two hundred yards on the north side.

F. Walker. When you first visited the scene of occurrence and when there on the mortor-cycle, were you joined by any police officer ?—Yes.

Were any of the witnesses in this case there ?—I cannot tell you.

Who joined you there ?—I cannot tell you.

You know the man Debi Gowala ?—Yes.

Did you see him there ?—I could not tell you.

Or Radha Syam Singh ?—I cannot tell you at all; there was a big crowd.

May I take it that at that time no information was given to you on the spot by any police officer ?—Nothing except that the inspector had been shot.

None of the details had been given to you then ?—No.

You then, I understand, went to the thana ?—Yes.

After going to the thana, did you revisit the spot with any of the police witnesses ?—No.

So I may take it that, so far as the 19th is concerned, you received no information of any sort from any police officer of any details of what took place at the scene of the occurrence ?—What time ?

Any time on the 19th, on the spot itself ?—No, no information at all.

Did you see the tramcar that night ?—No it had moved on by the time I arrived there.

That night did you know what tram car it was ?' No.

Did you make any enquires ?—No.

Did anyone tell you what tramcar it was ?—They may have, but I don't remember.

Of course you received some information as to details at that time, but that was at the thana ?—Yes.

I take it that subsequently you received more details. Were these details from police officers amongst others ?—Yes. F. Walker.

Were these details given at first hand to you ?—

In what language ?—Hindi, and, of course, Inspector Singha spoke to me in English.

And you know Hindi ?—To a certain extent, yes.

Did Debi Gowala make a statement to you that night ?—Yes.

Did Radha Syam Singh ?—I think he did.

You are not sure ?—I am pretty certain he did.

And the Jemadar Abdul Gafoor ?—Yes.

Do you think he did or what ?—I think he did.

Did anyone who was not a police officer give you information ?—Yes.

Can you tell me who he was ?—Ganga Teli.

Anyone else ?—There were several there, I cannot tell you their names.

I am rather anxious about this, Mr. Walker. I took down the names you gave and there are certain important names which are missing. I want you to exhaust your memory before I put them to you. I want all the names given you that night so far as you can remember. You gave us the names of three policemen and Ganga, the uncle. Was there anyone else ?—At the thana ?

He gave you information at the thana ?—I cannot tell.

But you got no information except what you got at the thana ?—Yes, I went outside again.

Then you got additional information ?—Yes.

From whom ?—Mono Dutt Panday. I think that is all. Oh ! there is the *panwallah*.

Anyone else ?—I could not tell you.

You do not remember getting any information from a man called Sree Dousad ?—I do not remem-

F. Walker. ber. I cannot tell you whether it was that night or the following morning.

That is the point, whether these men gave you the information that night or later on. These non-police officers, did they come to you themselves or were they brought up to you by policemen?—I cannot tell you. I went to the spot where the accused was arrested and there I spoke to him.

Up to that time, had you taken a note of anything that had been told you by anyone?—No, I took no notes.

Then you went down the whole course?—Yes, the course which the accused was supposed to have taken.

Who showed you the course?—It may have been Radha Syam Singh. I do not know who it was. I went with Inspector Singha and there were two or three constables there as well and of course Ganga Teli.

You went to Beniatola and through those devious winding lanes?—Yes, the course which the accused had taken.

And then you got into Musjid Bari Street?—Yes, that is right.

When you got to Musjid Bari Street, whom did you see?—I saw the *panwallah*.

Anyone else?—I think I saw Mono Dutt Panday.

Anyone else?—I do not think anyone else.

Well, at any rate at that time you had no touch with Sree Dousad?—I may have, but I have no recollection.

From that date and up to-day, have you become acquainted with the antecedents of Sree Dousad?—No.

You never heard officially or otherwise that he had been suspected and kept in police custody up-country?—No.

Were you told that night how the accused was dressed ?—Yes. F. Walker.

Who told you ?—I think Inspecter Singha did.

That is before you went the course ?—Yes.

Did Inspector Singha say that he had seen the accused himself ?—While he was running away, no.

Then he simply repeated to you what he heard from other sources ?—Yes.

Did you hear from any outside source, from any-one who actually saw the boy, how he was dressed ?—I remember hearing at the thana.

Now, who told you ?—I cannot tell you.

What were you told ?—I was told that he was dressed in a black or dark alwan.

You cannot tell who gave you that information ?—No.

Did you see any such alwan in the police office ?—No.

Did you make any enquiries as to whether he had it on when he was arrested ?—No.

Did it occur to you that it was an important item ?—It did.

Did you take any steps to elucidate the mystery ?—That is one reason why I followed that course. It was to see if I could find it.

May I take it that you did not find it ?—No.

Did you make any enquiry on your way from any one as to whether an alwan had been picked up by anyone ?—I may have, but I have no recollection.

From whom ?—I have no recollection.

You mentioned Ganga's name ?—Yes.

Did you ask him how this boy was dressed ?—I may have, but I have no recollection.

Did he tell you that he was dressed in a black alwan ?—I don't remember. I must have asked him, but I don't recollect.

F. Walker. Did you ask anyone at the place of capture whether this boy had on an alwan when he was captured ?—I must have.

Did you ?—I don't remember.

Has any reward been offered by the police for the recovery of this alwan ?—I don't think so. I may say, no.

Except the search that you made that night are you aware of any steps being taken by the Police to recover the lost alwan ?—Well, as a matter of fact, that night when I sent out Inspector Singha I did it more with the intention to find the alwan.

And you also when you went with that intention? —I went out hoping to find another revolver. My interest was more centred upon finding another revolver than the alwan.

Did anyone say that the man who had been pursued had on a yellow alwan ?—No. It was always black.

You were rather bent upon the other portion of the case, the chance of recovering the other pistol ? —Yes.

The other pistol or other pistols ? You said he had one or two men with him. How many pistols were you looking for ?—One.

One at least ?—I think only one.

Did any rumour or report reach you that night that a pistol had been found ?—No.

Then, did you come back again after visiting Musjidbari Street ?—Yes, I went back to the thana.

Did you speak to the accused that night yourself? —No.

Where did you see him ?—In the thana.

I do not understand the accommodation there. Where in the thana ?—The passage in the thana was two rooms on either side. He sat on the west

side. I sat in the Inspector's room and it was in the Inspector's room on the south side that the accused was standing. F. Walker.

Was he handcuffed ?—No.

Was he dressed as he is now ?—I have no recollection.

Did you try the experiment of seeing whether the bullet would fit the pistol ?—No.

What was the size of that room ?—I should say about 20 feet square. I have no idea. I should say 18 or 20 feet square.

Was Rambhujan among the persons present at the thana ?—Yes.

Did he tell you that he actually captured the accused ?—I don't recollect now what he said.

Do you know why Rambhujan was not examined on the 22nd ? Do you know why there was the delay in his examination ?—No.

In the meantime he was rewarded ?—Yes.

And advertised in the papers ?—Yes.

The Commissioner made a speech ?—Yes.

And it was translated ?—Yes.

Nine persons were rewarded ?—It may be.

All officers were invited to attend the parade ?—It may be.

The reward was for arresting the murderer ?—I think it was for arresting a man with a revolver.

You know Golam Nabi ?—Yes. He was also rewarded.

Why was he rewarded ?—He gave the first information at the thana.

He took no part in the arrest ?—No.

Do you know, while the proceedings were going on in the Police Court on the 23rd, this accused denied having committed the murder ?—I don't know that.

F. Walker. He has here pleaded not guilty to the charges ?—Yes.

Do you know of any case in which a reward was given before the trial ?—I can't say. But I think there are cases.

Were you consulted before the rewards were offered ?—No.

On the 19th, were you told by anybody how many shots were fired ?—Yes, I was told that 4 or 5 shots were fired.

By how many persons ?—No, I was not told that.

Were you told how many shots the accused fired? —I was told that some of them had seen accused firing at the boy Ananta.

In regard to the murder of the Inspector were you told how many persons fired ?—I don't remember. I was told that 4 or 5 shots were fired.

Then why did you go to find the second revolver? —Because I found that only two chambers of the pistol were empty.

Is it not a fact that another man was arrested that night ?—Yes.

Was he brought to the thana ?—Yes. He was detained that night and subsequently discharged. His name is Jogendra.

Another man was at Alipore jail for identification? —Yes.

Then three persons were suspected in connection with this case ?—I can't say.

Cross-examined as regards the order of the chambers in the pistol, the witness said the order, so far he remembered, was—exploded, loaded, exploded, misfire, loaded. But he did not examine the chambers carefully nor did he take any note of it.

From the story you heard this accused fired one shot only ?—Yes. F. Walker.

And you found two empty chambers ?—Yes.

And you believed he fired one shot at the Inspector ?—Yes.

You believed this boy was responsible for firing two bullets ?—Yes, for at least two bullets.

Can you suggest how he can fire two shots considering that there is one loaded chamber between two exploded ones ?—I think the chamber-spring revolved somehow after the first shot was fired.

Then it could not have been fired in succession ? —No.

According to your statement the misfire comes between one exploded and one loaded ?—Yes.

Do you know what bore revolvers are used by Government officers ?—Yes, 450 bore. They are generally used by the Calcutta police.

The Court then adjourned.

FIFTH DAY

MONDAY, 2ND MARCH, 1914

R. S. Bajpai. Ram Sanker Bajpai, a conductor of second class tram car, was examined by the Standing Counsel. He said that he remembered the night of the 19th January last. His car was at Sova Bazar crossing at 8 o'clock that night. He first heard one report. He looked round and a Babu got down and two other Babus fired shots at him. The Babu fell down and the car passed the crossing.

Did you see the two men firing ?—I did.

Do you see either of those two Babus here ?—I see one of them here. There he is standing (points to the accused in the dock).

After the Babu fell down, what did the two Bengalis do ?—They ran away towards the south, followed by a constable and a crowd.

Cross-examined by Mr. Norton, witness said that he heard the report in front of him.

Did you see the flash of the pistol ?—I did.

At that time no one descended from the car ?—Yes, two or three Babus from the first class car got down.

Just now you said that before you heard the report you saw two or three Babus get down ?—Yes.

When you heard the first report no Babu got down ?—Yes.

From what part of the first class car did the report come ?—I cannot say.

Then one Babu got down ?—Yes.

Was he the Babu who afterwards fell down ?—Yes. R. S. Bajpai.

Then two Babus got down ?—Yes.

From the same compartment ?—I cannot say.

While passing along the crossing there was a sound ?—There was no sound, as the car was moving very slowly.

So everybody in the car heard the sound uttered by the Babu before he fell down ?—Yes.

After that other shots were fired ?--Yes.

In what direction was his face when he fell down? --I don't remember that.

Did you know at that time who he was ?--No.

How soon after the Babu fell down, did you hear the reports of the other shots ?—Immediately after the Babu fell, I heard and saw other shots. After he fell down I heard the report of three shots in quick succession.

Did you see any shots striking the Babu ?— I did not see whether the shots hit him.

Which of the Babus fired two shots ?—I saw them firing, but I cannot say who fired two shots.

By the time the three shots were fired where was the body in respect of your car ?—My car had not then passed the crossing.

Then these two men were standing between the Babu who had been shot and the trailer car ?—The two men were close to the man who had fallen down.

They were looking at the Babu who had fallen down ?--Yes.

Did they stoop down ?--Yes.

Did you see any blood on the body of the Inspector ?—No.

How did they look ?—They were of the same height, same age and size.

R. S. Bajpai. Was there anything distinguishable between the two ?—The accused has a broader face and is little taller than the other.

Just now you said that they were of the same height ?—I cannot say whether they were of the same height.

Continuing, witness said :—I did not see the accused the same night in police custody. I saw him in the Police Court. No one pointed him out to me. I knew he was charged with the murder of the Inspector. The day after the occurrence, an Inspector came to the depot and took me to the thana where my written statement was recorded. I did not see the accused at the thana. On the night of the occurrence one man was dressed in black, while the other had on a yellow chudder. Except those three shots, I did not hear any other shots.

You were taken to the Alipore Jail ?—Yes. Four or five days after that I was taken to the Alipore Jail to identify an accused.

Did you identify him ?—No.

About how many men were you shown ? About 20 or 25 men.

You said that these men were followed by a constable and a crowd. How many men besides the constable were there ?—About five or seven men.

Witness then said that he could not identify any of the passengers in his car that night. Some of the passengers asked him to stop the car. He issued tickets to all the passengers.

And yet you cannot identify one ?—No.

As a matter of fact, you saw their faces and yet you cannot identify any one of the passengers ?—No.

Re-examined by the Standing Counsel, witness said that when after hearing the report he turned

round the Inspector Babu was at a short distance from the car. R. S. Bajpai.

To the Jury; I was standing at the back of the trailer car. As soon as I heard the first report, I got down and proceeded to the head of the car to see what was the matter.

The Court: Did you say this before?—I might have.

When did you return?—I was very much excited and came back.

Mr. Norton then further cross-examined the witness.

You said you got down from the car?—After hearing the report I got down and walked a short distance ahead. I went up to the first door of my car.

When you were on the road you saw the inspector fall down?—Yes.

Were you on the ground when the three shots were fired?—Yes. As soon as they were fired, I got into my car.

Witness then said:—When the three shots were fired the Babu was on the ground and his face towards the north-west. He was about six or seven cubits from me. The other two Babus were between me and the Inspector. They got down from the same compartment The Inspector got down first. The car was moving slowly. The Babus must have been to the south of the Inspector. After I re-entered the car, I still looked on.

Why did you not tell the Magistrate about your getting down?—I was not asked.

Did you tell this to anybody?—Yes, to Inspector Mohendra Nath Singha.

Raja Ram Misra, a tramcar driver examined by Mr. E. P. Ghosh. He said that he was a driver of the motor-car on the night of January 19th last. R. R. Misra.

R. R. Misra. When the car reached the Sova Bazar junction, he stopped the car and when the bell was sounded he moved the car slowly. He heard a report and slowed down. He then heard three more reports and slowly moved the car.

The witness was not cross-examined.

Bhola Kalwar Bhola Kalwar examined by the Standing Counsel —He said he had a *thakurbari* in Sonar Gouranga Lane. He was a money-lender. He remembered the evening when Ananta Teli died. At that time he was in his shop or at the *thakurbari.* He was seated there when people were chasing a man and shouting out "Thief, thief." He got down from his *thakurbari.* He saw a man running along followed by two policemen. After the man had passed his shop about ten cubits, Ganga Teli went to arrest him. The man was running towards the south. Ganga was then standing in front of the *pan* shop.

What happened then?—Ganga and Ananta laid hold of the cloth of the man. As soon as he was caught, he turned towards the north and fired a shot. Ganga sat down and it hit Ananta.

How far were you from that place?—About ten or twelve cubits.

Did you see the man?—Yes.

Can you recognise him?—That is the man (identifies the accused.)

Witness then said that after firing the man again ran to the south. Witness went up to where Ananta was lying. The boy was afterwards removed in a gharry.

Cross-examined by Mr. Norton, witness said that his *thakurbari* was at 296, Upper Chitpore Road.

In 1909, you were convicted of being in possession of 37 packets of cocaine?—No.

You were fined Rs. 50 or in default one month's imprisonment?—Yes.

The cocaine was confiscated ?—Yes. Bhola Kalwar

In that case, you pleaded guilty ?—Yes.

In 1913, you were prosecuted for possession of illicit cocaine ?—No.

In August, 1913, you were on bail ?—No.

Superintendent Wilson withdrew the case ?—No.

What is your father's name ?—Koon Koon.

You still say you were not prosecuted in August, 1913 ?—I don't remember.

Continuing witness said : My *thakurbari* is a two-storied building. It is not true that I was on the upper storey when I heard the row. The *thakurbari* is on the ground floor.

You told the Magistrate : "When I came down from my *thakurbari* into the Street, I saw the man running towards the south ?"—Yes.

You also said : "When I got down I saw the man running towards the south and I saw Ganga and Ananta catch hold of the wrapper ?"—Yes.

That was the first time you saw the accused ?—Yes.

As these two persons caught the chudder, did it come off ?—I don't remember that. The man was then in the middle of the street. Ananta was a boy of twelve.

How did Ananta stand when he caught hold of the chudder ?—Ganga was in front of the *pan* shop. He was on the right hand side and Ananta was on the left hand side of the accused.

You said that the man showed the pistol to Ganga ?—I did not say that.

Ganga was behind the accused ?—Yes.

Did the accused turn round towards Ganga ?—No, he turned round towards Ananta.

Asked to describe the position of the men at the time, witness said he could not describe it.

Bhola Kalwar

Tell me exactly what happened when the accused fired?—There were so many men that I cannot say whom he aimed at.

When did you see the accused?—When he was brought in custody.

You were told that he was arrested in Musjid Bari Street?—Yes.

Ganga Teli.

Ganga Teli examined by the Standing Counsel.—He said he remembered the night that Ananta died. He knew the *pan* shop in Sonar Gouranga Lane. Ananta and he were in front of that shop on the evening of the 19th January last.

What happened?—We were standing when a man was being chased by a crowd. I heard a cry from Upper Chitpore Road, "Catch him, catch him." The man came from Baniatola Lane. Both Ananta and I caught hold of his chudder and he fired at me.

Do you see the man here?—No.

Is he the man in the dock?—Yes.

What happened then?—I sat down and Ananta was hit on the forehead. I and others pursued the man. We went to Musjid Bari Street. When we arrived at Musjid Bari Street, he had been arrested there.

Witness then said: When Ananta was hit, I did not attend to him. I know Abdul Gaffur. He came to Musjid Bari Street after I got there. I saw a pistol and two cartridges there.

At his stage the Foreman of the Jury informed his lordship that one of the jurors was not feeling well.

The Court then adjourned for ten minutes.

Subsequently his Lordship was informed that the juror was still unwell and would not be able to attend the Court for the rest of the day.

The Court then rose for the day.

SIXTH DAY

TUESDAY, 3RD MARCH, 1914

Ganga Teli further cross-examined by Mr. Norton said that he knew Golab Teli, father of the deceased boy Ananta Teli. . Golab was not a relation of his, but he lived close to him. Ganga Teli.

Did you steal his goat ?—No, I was falsely charged with the offence.

Last year in June you were convicted for stealing Golab's goat ?—Yes.

What was the punishment ?—Five stripes.

And you pleaded guilty ?—Yes.

Still you say that it is a false case ?—Yes.

Who brought this false charge against you ?—I can't say.

Was it by the police ?—No, Golab Teli might have brought it.

Inspector Mohendra Nath Singha sent you up in that case ?—Yes.

You know Abdul Gaffur ?—Yes.

He keeps a watch over you after your conviction ?—Yes.

You go to the police now and then ?—No, I drive my cart in Beadon Street.

From what hour to what hour do you drive your cart ?—From six in the morning till six in the evening.

What do you do after that—I go to sleep.

What were you doing on the evening of January 19th last ?—I was purchasing *biri* (Indian cigarettes) and *pan* at a shop in Sonar Gouranga Lane.

Ganga Teli.

Where is the *pan* shop in respect of the *thakurbari* ?—On the same side of the lane.

Where did you first see the accused ?—In Sonar Gouranga Lane.

Where did you see him from the shop ?—I saw him south of that lane.

Was he alone ?—No. There were ten or twelve men following him.

About how far were they ?—About eight or ten paces from me.

Where was Ananta then ?—He was on my right and in front of the shop, facing south.

Did he come close to you ?—Yes.

Did you try to catch hold of the accused by his chudder ?—Yes, I did.

Had you to move in order to catch his chudder ?—Yes, but only a little.

Did you catch hold of his chudder with both your hands ?—Yes.

What happened then ?—He pointed a pistol at me.

How did you know that it was a pistol ?—As soon as he turned round, I saw it.

Had you seen a pistol before ?—No.

Then how could you have known that it was a pistol ?—I understood it was a pistol. I had seen one before.

How long before ?—About three years ago in Shambazar in the hands of a policeman.

How did you know it was a pistol ?—I was told so.

What did you do after the pistol was shown ?—I sat down with my hands folded as if in an attitude of prayer

Where was the boy ?—He was on my right hand side. We were standing side by side.

What happened when the pistol was shown to you?—The shot was aimed at me. If I had not sat down, the boy would not have been shot. Ganga Teli.

Your finger was grazed by the bullet?—Yes, the knuckle joint of my fourth finger of my right hand.

Was it a serious wound?—No.

Did you show it to anybody?—Yes, to the police who sent me on to the hospital. I walked to the Pathuriaghatta Hospital accompanied by a constable.

Was your finger treated?—No, but I was granted a certificate.

You had great pain?—I had pain, but not much.

Did the accused stop after the bullet was fired? —No.

Did the crowd following the accused stop?—No,

After the shot was fired, what did you do?—I also joined the chase.

Were you nearest to him?—No, I was last of all.

Did you see the father of the boy that night?—Yes, he was standing by the body of his son.

What did the father do?—He picked up the boy and was taking him to the thana when he met the police Babus on the way who took the boy to the Mayo Hospital.

Did you see him taking the boy to the hospital? —Yes.

How long after the shot was fired, was the boy taken?—About ten or fifteen minutes later.

Where were you then?—I was at Musjid Bari Street.

Did you see a pistol taken from the accused?—I saw it taken from his hand.

Did you see it taken from his pocket?—No.

Did you tell the Magistrate that the pistol was

Ganga Teli. found in the accused's pocket?—I don't remember. If I had said so, it was a mistake.

You said now that two cartridges were found in pocket?—Yes.

Then why did you not tell that to the Magistrate? —I did not remember it then.

Did you see any pice taken from his pocket?—No.

Then why did you tell the Magistrate that you saw some pice taken from his pocket?—I don't remember.

You further told the Magistrate that you saw nothing else?—I don't remember what I told the Magistrate.

If you had said that, is it not true?—I can't say that. I say only the pistol and the cartridges.

You remember that now, but you failed to do so on January 22nd last, immediately three days after the occurrence when the facts were very fresh in your mind?—It did not come to my mind then.

Mr. Justice Stephen: Are you sure that you saw the pistol in his hand in Musjid Bari street?

Witness: Yes.

Mr. Norton; What was done with that pistol?—Sree Dousad took it from the accused and handed it over to Abdul Gaffur.

Then, why did you not say this to the Magistrate? —I forgot it then.

You said yesterday that Abdul Gaffur came after you?—Yes, but I said that by guess.

At the Coroner's Court you said that after the shot was fired, I did not follow the accused?—I might have said that.

Was it true?—Yes; if it is written there it must be true.

Then you did not follow the accused ?—Yes, I followed him. My present statement is correct. Ganga Teli.

You were rewarded by the Government ?—Yes. I got Rs. 100.

For what ?—For catching him.

When did you catch him ?—I caught him, but as soon as the pistol was fired I left him go.

Till the pistol was fired, you got hold of his chudder ?—No, as soon as he turned round, I sat down and let go my hold.

The chudder was in your hand ?—He ran away with the chudder.

Give me the colour of the chudder ?—It was a black chudder.

At Musjid Bari Street you saw the accused with the chudder ?—No, He had no chudder on him.

Why were you rewarded ?—I caught him, was fired at, it hurt me, and I followed him. For all these things I was rewarded.

Were you taken anywhere to identify any one, either before or after the reward ?—No.

What is a revolver ?—I don't know.

Is it a sweetmeat ?—May be.

Who told you to say before the Coroner that you saw a revolver in the accused's hand ?—No one told me that.

Re-examined by the Standing Counsel, witness said that when the boy was removed, he (witness) was at Musjid Bari Street.

Then you did not see him being removed ?—After he was removed, I went to Musjid Bari Street.

Mr. Justice Stephen: Were you with the boy Ananta till his father came ?—Yes.

After his father came, you went to Musjid Bari

Ganga Teli. Street ?—Yes, his father came two or three minutes afterwards.

Are you quite certain you saw the pistol taken from him at Musjid Bari Street ?—Yes.

The Foreman of the Jury : How close were you to the accused in Musjid Bari Street ?—About five or six cubits.

Was there any possibility of mistaking cartridges for pice ?—No, I saw the cartridges.

D. J. Todd. David, James Todd, of Rodda and Co. was next examined by the Standing Counsel. He said he had fourteen years' experience in gun-making and had been three years in India.

Witness was then asked to examine the revolver which was said to have been found with the accused.

Does that revolver show the name of the maker or the number ?—No.

What manufacture is that ?—Belgian.

Is it a copy of Webley ?—Not exactly a copy, but it is similar to that. It is a 450 bore.

Have you examined the trigger ?—It is defective. It is knocked off somewhere.

Of the three cartridges taken out, two are loaded and one fired ?—Yes.

There was one misfire in the chamber ?—Yes.

How can the misfire take place ?—The striker is defective and the revolver is also defective in other respects and so the misfire occurred. The carriage is all right.

Is it possible to revolve the chamber without pulling the trigger with sufficient force ?—Yes, it is quite possible to revolve the chamber more easily if the pistol is clean, but it is a rusty one.

Is it a cheap kind of revolver ?—Yes, it is the cheapest kind.

Witness produced a similar kind of revolver but

very clean and showed that the chamber could be revolved by mere brushing against something. D. J. Todd.

Is it consistent with continuous firing to have the chamber in the following order: discharged, loaded, discharged, 'misfire,' and loaded?—Yes. With a clean revolver of this kind it can be done any time by a slight pull of the trigger. In a revolver like this, there is a possibility of the chambers jumping by a slight pull of the trigger resulting in misfire.

What are the causes of the chamber being revolved?—By a slight pull, jump and friction.

Was the pistol cleaned after use?—No. If it is not cleaned after use, it becomes rusty very soon.

The bullets in the chamber are 450?—Yes. Three of them were found there.

Witness then examined the cartridges said to have been found in the accused's pocket.

Are they live cartridges?—Yes.

Are there marks of misfire on them?—Yes.

Of what bore are they?—450.

Witness then weighed the two parts of a bullet exhibited in the case, and found them weighing 204 grains. He said that the only bullet of lesser weight procurable in India was of 442 bore weighing 220 grains The bullet he weighed could not be of a 442 pistol, as it was of cone shape. It could have been fired out of that revolver. The small portion of the bullet bore marks of rifling. Witness then produced a book called Gun Trade Handbook to explain the marks in the fragments of the bullet.

Cross-examined by Mr. Norton—Witness said that on January 27th last he was asked by the Deputy Commissioner to examine the revolver and was asked to produce a sample revolver of similar kind. He said that there was no difficulty in a misfire

D. J. Todd. coming between two discharged bullets in the chamber. It was absolutely impossible for any one to fire three shots with those bullets in the chamber as they were found.

Continuing, witness said that the indentations in the misfired cartridge were exactly the same as those on the other two cartridges found on the accused which were also misfired but live cartridges. The indentations found upon those cartridges appeared to him, judging from the nature of the defect of the hammer, to have been caused by the hammer of that very pistol, but he had not dared experiment with a view to find out if it was so, because it was a loaded pistol.

In reply to further questions witness said that if it had been fired leisurely there would have been no possibility of a misfire. He had not experimented with that revolver to find out how many misfires would occur. It was not possible to fire more than two bullets out of the chamber. Looking at the hammer he could tell the number of misfires. It was impossible to say how long this pistol was in use.

Witness further said that the two broken pieces of the bullet found in the body of Ananto, one by Dr. Maitra, of the Mayo Hospital, and the other by Major Foster, Police Surgeon, might have been parts of the bullet fired from this pistol (shown). Those broken parts had on them the impressions like those of the rifling of the barrel. He could ascertain that by cleaning the pistol. A bullet would lose in weight in firing, but what amount of weight would be lost by firing he could not say. He had no special knowledge on the subject.

You can't fire a ·360 bullet in a ·450 pistol? —No.

What is the weight of a bullet in a 450 bore pistol?--160 grains.

D. J. Todd.

In reply to further questions put by Mr. Norton, witness said that if he was allowed to clean the revolver and make a proper examination, he would be able to tell whether the bullet found in the body of Ananto was fired from this particular revolver.

Mr. Norton objected to this being done now.

The Standing Counsel said that he could understand Mr. Norton's objection and did not press it being done immediately. He, however, asked his lordship to direct this to be done after all the witnesses had been examined.

Re-examined by the Standing Counsel, witness said that the revolver he produced was procured from a customer. It was a clean one.

Foreman of the Jury: Is there any identification mark on the cartridges?—Yes.

Are the cartridges you found generally used by the police?—The police use all sorts of cartridges and of various bore.

Are the marks made by the same striker?—Yes.

Mr. Justice Stephen: If the bullet is too large, can it be fired with this pistol?—No.

Sivadhar Dobey.

Sivadhar Dobey was next examined by the Standing Counsel. He said he knew Bhola Kalwar, whose servant he was. He remembered the evening when the Inspector was shot. On that evening he was collecting money from a Gowala's shop at the head of Beniatola Lane. He was standing at the junction of Chitpore Road, and Beniatola Lane, when he heard shouts of "Puckro, puckro" coming from the direction of Sova Bazar. He saw a man running followed by two or three policemen and others.

How far were you from Sonar Gouranga Lane, when you saw Ganga and Ananta?—I was at the

Sivadhar Dobey.

turning when the man ran towards the south. Ganga and Ananta were standing near the *pan* shop. I was standing at the junction of the three roads. There is a gas lamp there. I was about 15 paces from the gas-lamp. The Gowala's shop is about 7 or 8 paces from the gas-lamp. The *pan* shop where Ganga and Ananta were standing was visible from the place where I was. I saw the man who ran past me. He is here (points to the accused).

Then what happened?—Ganga and Ananta caught hold of his wrapper. He then produced a pistol and fired at them. There was a report. Ganga sat down and Ananta was hit on the forehead.

When the man passed you, did you see anything in his hand ?—No.

Did you afterwards see the man who fired this shot ?—Yes. I went to Chitpore Road and I saw the daroga bringing him in custody.

The Court then rose for lunch.

On the court re-assembling, Mr. Norton cross-examined the witness, who said that the accused was running fast. All he saw was that the accused was turning round Sonar Gouranga Lane. He could not see whether the accused had anything in his hand.

Did you ever see anything in his hand that night ?—No.

That you remember distinctly ?—When he went away, how could I see ?

When you saw him in police custody he had nothing in his hands then ?—There were two policemen one on either side of him. I did not see anything.

Witness next said that he knew nothing about the chudder.

J. N. Bhattacharjee.

Jogendra Nath Bhattacharjee examined by the Standing Counsel said that he resided in Ahiritolla

Street. At about 8 o'clock on the night the Inspector died he was going home through Sonar Gouranga Lane. J. N. Bhattacharjee.

What happened ?—As I was passing through the lane, the accused ran past me, followed by two or three men shouting out "puckro, puckro." Ganga and Ananta laid hold of his wrapper. The accused turned round and fired a shot and Ananta fell down. The accused ran on followed by several people and myself. As he was about to enter Musjid Bari Street, a man named Sree Dousad attempted to catch him. He showed a pistol to Sree Dousad and ran towards Musjid Bari Street. I remained standing at the junction of Chitpore Road and Musjid Bari Street. Mano Dutt Panday arrested the accused at a short distance away in my presence. Sree Dousad then snatched away the pistol from the accused. Jemadar Gaffur Khan searched the accused and found two cartridges in his possession. Sree Dousad made over the revolver to the Jemadar.

Cross-examined by Mr. Norton, witness said that he was not an old friend of the police.

You constantly give evidence for them in the Police Courts ?—No.

In June last you gave evidence in favour of the police ?—No.

You know one Dhuki ?—Yes.

He is a witness in this case ?—I don't know.

Did you not give evidence against Dhuki ?—No.

Is not this man Dhuki (shown) ?—Yes.

He was convicted of theft ?—I don't know. I know that others were convicted and released on appeal. I did not give evidence in that case.

You swear that ?—Yes.

Witness next said that the accused was running

J. N. Bhattacharjee. pretty fast, the same as an ordinary constable ran when on parade. The accused stopped for a short time, turned round and fired. When witness heard the report he also turned round. He did not see when Ganga and Ananta caught hold of the accused's chudder but when he was turning round he saw Ganga holding the chudder, Ganga sat down letting go his hold immediately.

Do you swear that after the shot was fired you turned round and saw Ganga holding the chudder ?—Yes. He let the chudder go and sat down.

Where was Ananta at that time ?—He had fallen down.

Did you see Ananta holding the chudder of the accused ?—Yes.

Did you see Ganga holding the man's chudder once before and once after the shot was fired ?—No. I saw him holding once. As soon as a shot was fired he let the chudder go.

After the shot was fired, you joined in the pursuit ?—Yes.

From the time you started, you never lost sight of the accused ?—He was in my view. Sometimes he was out of sight for a few seconds and then again he was in my view.

What happened to the chudder ?—I don't know.

You got a reward of Rs. 100 ?—Yes.

Why ?—I pursued him.

You never touched him ?—No.

Never tried to touch him ?—No.

Yo went to see the *tamasha* ?—Every one was running after him and I also ran after him.

Witness then said : I know Sree Dousad. I saw him snatch the pistol from the accused. Up to that I did not see any policeman touching the accused. I saw Mano Dutt Panday catch hold of the

accused. Previous to that the accused pointed a pistol at Sree Dousad who sat down. I was about two or three cubits off when Abdul Gaffur searched the accused. The accused was taken away by the constables and Gaffur Khan. He was not hand-cuffed then. His two hands were tied with two *gamcha* or *chudders*. I cannot say whether any pice was found on the accused, but some letters, a packet and some cartridges were found in his possession. J. N. Bhattacharjee.

Gour Mohan Shaw, a hotel-keeper at No. 287, Upper Chitpore Road was next examined by the Standing Counsel. He said that at about 8 o'clock on the night of the 19th January last, he was in his shop and heard reports of shots. He came out into the street and saw two men running towards the south followed by some constables and others. One of the men had a pistol in his hand. Gour Mohan Shaw.

Can you identify the man?—The man in the dock seems to be one of them. This man has now a long beard.

Cross-examined by Mr. Norton, witness said that on the night in question this man had a slight beard just growing.

And still you recognise him?—That is, I have some doubts.

Witness then said that on coming out of his shop he heard there was a murder. As he stepped out the two men ran past him. He did not stop them. He did not hear any report after coming out on the road. He noticed only the first man who had a a revolver in his hand. He could not identify the other man.

You said before the Magistrate "if I see them I can identify them"?—I don't remember having said so.

Did you see either of them entering Boniatola Street?—No.

The Court then rose for the day.

SEVENTH DAY

WEDNESDAY, 4TH MARCH, 1914

Mr. Walker.

Mr. Walker, Deputy Commissioner of Police, recalled by the Court, said in answer to his lordship that the police had different kinds of revolvers. The revolvers were kept in the Lal Bazar Armoury. The bores were 450 and Webley's. He also thought they had Browning's automatic, but he did not know the bore. The revolvers were kept under lock and they were issued by Inspecter Edwards to sergeants under the instructions of the Superintendent of the Reserve Force. He had never seen a pistol like the one in this case with the police.

To the Standing Counsel, The Webley revolver was of British make and was six-chambered.

To Mr. Norton: He had no recollection whether similar revolvers were found in the Alipore Bomb Case. There was a police Malkhana at Lal Bazar in which revolvers and other arms found by the police, were kept. Inspector Harihar Mookerjee had the key of the Malkhana. The murdered inspector had two personal attendants. They were both absent on the night of the murder. The murdered Inspector was being guarded because he was afraid he would be murdered. The deceased Inspector had received threatening letters.

Sri Barhil.

Sri Barhail was then examined by the Standing Counsel. He said he had a pan shop in Sonar Gouranga Lane. He knew Ananta. He remembered the night Ananta died. Witness was seated in his shop that night. He heard shouts from the north of "Puckro, puckro" and saw people running from north to south chasing a man.

What happened ?—Ananta and Ganga were standing near my shop. They seized the man's wrapper. I heard a shot. Ganga sat down and Ananta was hit. The man ran on followed by a crowd. Sri Barbil.

Did you see the man who ran ?—Yes.

Will you be able to identify him ?—Yes (points to the accused).

Cross-examined by Mr. Norton, witness said he was about 45 or 50 years of age His eye-sight was impaired. He did not wear glasses. On the night in question he was sitting down and arranging betel in his shop. He had a kerosine lamp with a shade hanging from the ceiling. The lamp was about six or seven feet from the ground.

It is true you heard shouts of " Puckro, puckro"? —Yes.

How long after that did this boy run past ?—Within a short time.

Practically almost simultaneously ?—Yes.

And you were seated ?—Yes.

And he ran fast ?—Yes.

After that did you get up ?—No, I remained seated.

And the lamp was hanging between you and the street ?—Yes.

Why did you not tell the Magistrate that you heard shouts of " Puckro, puckro"?—I don't remember whether I stated that or not.

You did not. Why not ?—I don't remember.

A number of people were chasing this boy when he ran past your shop ?—Yes.

Can you identify any one of that crowd ?—No.

After the man passed your shop, Ganga interfered ?—No, he was in front of my shop when Ganga interfered.

How was he dressed?—He had on a black chudder.

Sri Barhil.

Is that all you noticed ?—Yes.

Why did you not mention the fact of the black chudder to the Magistrate ?—I was not asked.

Before you gave evidence in the Police Court, did you make a statement to any police officer ?—No.

After this occurrence that night were you asked any question about it by anybody ?—No.

Did you tell anybody what you had seen ?—No.

Between the 19th and 23rd—the date on which you were examined—did you tell anybody what you had seen ?—No.

Witness then said he remembered being examined in the Police Court by Rai Saheb Tarak Nath Sadhu. Before that he made no statement to anybody. Gánga and Ananta seized the chudder from behind as the man was passing his shop. He saw that.

Why did you not tell the Magistrate that both Ganga and Ananta had seized the chudder ?—I was not asked. I don't remember.

Continuing, witness said that Ganga seized the chudder and not Ananta. When Ganga seized the chudder, it did not come off. He had the accused in view only as long as the latter was in front of his shop. In the Magistrate's Court he was asked to identify the accused.

And you identified him after some hesitation ?—My eye-sight is bad and it took me some little time to identify him.

Because your eye-sight was bad ?—Yes.

To the Court : When he heard the shot Ananta fell down in front of his shop. Ganga was there all the time.

J. Kahar.

Juggernath Kahar, examined by the Standing Counsel said he had a *pan* shop at the head of

Beniatola Lane. He remembered the night when the Police Inspector died. That night he heard shouts from Chitpore Road of "puckro, puckro" A man turned into Beniatola Lane from Chitpore. The man had a pistol in his hand.

Can you identify that man?—Yes. (Points to the accused).

Witness then said that a crowd was following the man and chased him down the lane.

Cross-examined by Mr. Norton,—he said 8 or 10 or more men followed the accused. He could identify the Jemadar and constables, but none of the others as it was night.

The accused flashed passed you in a second?—Yes.

You had not seen him before?—No.

You have not seen him since?—I saw him ten or fifteen minutes later when he was brought in custody by the police to my shop.

Witness then said that the same night the Deputy Commissioner came and asked him what he had seen.

You were examined in the Magistrate's Court?—Yes.

Why did you not tell the Magistrate a single word about these shouts of "puckrow, puckrow?"—I did tell him. Probably it was not taken down.

To the Jury: He could identify the constatble in plain clothes because the constable belonged to the thana in whose jurisdiction he was. He knew the Jemadar Abdul Gaffur. The Jemadar was in the uniform.

Ram Bhujan Singh was next called by the Standing Counsel. He said he was employed in the Criminal Investigation Department. He remembered the night Inspector Nripendra Nath Ghose died. At 8 P.M. that night he was in Ahiritola Street and

Ram Bhujan Singh.

Ram Bhujan Singh.

came to Chitpur Road towards the north I heard two or three gun shot reports. I was then a little to the north of the point where Beniatola meets Chitpore.

What did you do ?—I saw two men running along from north to south. They were proceeding in the opposite direction. When they came opposite to me, one of them fired a short at me.

What happened ? I was startled and closed my eyes. When I opened my eyes, I missed one man and saw the other man running. I chased him. I followed him. In the meantime he fired a shot and I saw a boy fall down. I don't know the name of the lane where the boy fell, but it is called "Dalpatty." I continued following the accused. He was along in my view. Eventually he ran down Musjid Bari Street There he was seized by one Mano Dutt Panday in front of a *pan* shop. I saw him seized. I was then at the junction of Musjid Bari Street and Chitpore Road.

Before Mano Dutt Panday arrested him, did you see anything ?—No.

Do you know a man named Sree Dousad ?—Yes. He snatched away a pistol from the accused after Mano Dutt Panday laid old of him. Do you see that man here now ?—Yes (points to the accused).

After the accused was seized by Mano Dutt and Sree Dousad snatched away the pistol what happened ?—Radha Syam threw his arms round him. I also seized him. The Head-Constable searched the accused and found two cartridges in his right-hand pocket. Sree Dousad made over the pistol to the Jemadar. The accused was then taken away.

Cross-examined by Mr. Norton—witness said he was in Calcutta on January 22nd, and 23rd last. He did not give evidence in the Police Court on either of those days.

On January 26th, you were rewarded by the Commissioner of Police?—Yes. Ram Bhujan Singh.

With Rs. 750 in Durbar?—Yes.

And you the gave evidence on the 30th four days after the reward?—Yes.

Continuing, witness said he made no statement on the 19th to anybody. On the 19th he saw the Chota Babu. He did not know the Chota Babu's name or nationality. He saw the Chota Babu when the accused was taken to the thana. He spoke to the Chota Babu, who took down on a piece of paper what he said The Chota Babu did not read out what he had taken down. He did not know what the Chota Babu took down. He did not sign that paper. He did not know what had become of it. He did not see it since. Mr. Walker was there and heard what he told the Chota Babu. No statement was taken in his presence from any other police officer at the thana that night. He left the thana at ten o'clock that night. On the 24th he made a statement orally and the Inspector took it down. He did not know the Inspector's name, but he could identify him. It was taken down on a piece of paper. He did not remember whether he signed it or not. He had not seen it since.

On the 25th you were warned to attend the parade on the 26th?—Yes, I was warned in the evening about 5 o'clock by Mr. Burt.

You were told you would get a handsome reward?—He told me I would get a reward.

You were in Calcutta from the 26th to the 30th?—Yes.

Do you know why you were not examined between the 26th and 30th?—No.

Between these dates you were in touch with your police superiors?—Yes.

About the evidence you were going to give on the

Ram Bhujan Singh.

30th?—I had no conversation with them about that.

Witness then said he had been in the C. I. D. three years.

What are your duties?

The Standing Counsil objected to the question. It was obvious what the witness's duties were.

Mr. Norton: I challenge his presence there that night.

Are your duties in connection with the police?—I get my orders from my own office.

Are they in connection with the police?—Yes.

Are you given a certain area of the town patrol?—No. I was on duty there.

Are you given any special jurisdiction in any part of the town?—I was watching a suspect.

Is there any portion of the town placed under your special jurisdiction?—No.

Are you free to go over the whole of Calcutta in any locality you like?—Yes, I can go wherever I like.

On January 19th last, had you been placed on special duty anywhere?—Yes.

Where?—In Aheereetola Street.

To watch that particular street?—Yes, I was watching a suspect.

To watch that particular street?—Yes.

What are your hours of duty?—In the evening my hours were from 4 P.M. to 8 P.M.

Were you alone that night?—From 4 P.M. to 8 P. M. I was alone.

Where you do live?—At Shampukur.

Witness then said that he did not wear a watch. He heard the shooting about 8 o'clock. He was going home then. His ordinary route would be along Chitpore Road.

How many shots did you hear?—Two or three. Ram Bhujan Singh.

Did you run up?—No.

You simply walked up?—I slightly accelerated my pace.

You saw two men come running down the road from the north towards you?—Yes.

Were they side by side?—Yes.

Did you observe how they were dressed?—Yes, I did.

One man had a yellow chudder?—Yes.

And the other had a black one?—Yes.

One of them fired?—Yes.

Straight at you?—Yes.

And the bullet came near your feet?—Yes.

It missed you?—Yes, I was startled and closed my eyes.

And simultaneously one man disappeared?—Yes.

Which of these two men fired?—The man with the yellow chudder.

And the man with the black chudder ran ahead? —Yes.

And you followed him?—Yes, he had a pistol in his hand.

And he did not turn round and fire at you?—No. He was five to seven paces ahead of me.

Did you seriously intend to try and catch him? —Yes, he was getting further and further away from me.

Did you tell the Magistrate that the present accused fired at you in Chitpore Road?—No.

Did you say this to the Magistrate: "I saw two men running towards the south. When I came close to the place of the occurrence a shot was fired at me and hit me on my foot. I then chased one man (the accused). The other man disappeared

Ram Bhujan Singh.

The accused entered Beniatola Street. I followed him and heard him fire again" ?—I heard a report.

Did you say those words: "and heard him fire again" ?—I did say so because I did hear a report.

You heard this man fire twice ?—Once. I did hear him fire again.

Then you did hear him fire twice ?—No, only once.

Then how could he fire again if he had not fired before ?—I don't remember having said "again."

But you have said so. Did you make that statement ?—No.

Have you not had a conversation with the police since this case came on in the High Court ?—Never.

I put it to you that you were told to say the accused fired once because the story that he fired twice would be inconsistent with the number of spent cartridges in the revolver ?—No.

Did you see the boy being shot ?—Yes.

How is it you did not say a word about the boy being shot, in your statement before the Magistrate? —I don't know. I did not actually see the boy being shot. I only heard the report and I ran on.

Did you swear to Mr. Mitter to-day that you saw the boy fall ?—Yes.

Why did you not tell the Magistrate that ?—I don't remember whether I did or did not.

You did not ! Why did you not ?—I don't know to read or write. I don't know what has been taken down.

Why did you not tell the Magistrate you saw the boy fall ?—I don't remember anything about that.

Was your statement explained to you ?—Yes, but not clearly.

Did you tell the Magistrate it was not clearly explained ?—No.

Did you sign this imperfectly explained statement?—Yes. Ram Bhujan Singh.

Is this your signature (shown)?—Yes.

Did you say just now you could not read and write?—Yes.

Is that true?—I can only write my name.

Can you write anything else?—The names of a few people.

Can you write letters? No.

Why did you not tell the Magistrate you saw the boy fall?—The man who explained the statement to me did not explain it properly. He said that if I did not appear in this court I would be fined Rs. 500.

Continuing, witness said that after he heard the shots the accused had no chudder on. He saw no one try to catch hold of the chudder. He and the others arrived at Musjid Bari Street at the same time. He saw Mano Dutt Panday seize the accused. He did not see the accused point the pistol at Sree Dousad. The accused did present the pistol at Mano Dutt Panday, when the latter seized him. Mano Dutt seized this accused from the front. From the position in which he was seized, the accused could not have shot Mano Dutt. He did not know Ganga. He did not see a packet of letters found in the accused's pocket, or a packet of spices or some pice.

The Court then rose for lunch.

On the court re-assembling, Bhola Teli was examined by the Standing Counsel. He said he knew the *Thakurbari* of Bhola Kalwar and he lived alongside of it. He had a son named Ananta and he was his only son. He was aged 13 years. Ananta was shot dead. Witness worked as a coolie and at the time Ananta was shot he was away on coolie work. He heard at the place he was working that his son was killed. Hearing this he came running to the Bhola Teli.

Bhola Teli. spot where his son's body was lying. He was bleeding profusely at the time. Witness and the police put Ananta in a gharry and carried him to the hospital where he died after admission.

The Foreman of the Jury: Was Ganga Teli present there at the time you put Ananta in the gharry?—I was not in my senses then. I can't say who was there at the time.

H. C. Upadhya. Head Constable Harnandan Upadhya examined by Mr. E. P. Ghosh, said he took a boy to the hospital in a gharry on the evening of January 19th last. He was at the junction of the Chitpore Road and Sova Bazar street and he took the boy to the hospital by order of Inspector Mothendra Nath Singh. He also took the dead body to the Morgue and identified it to the Police Surgeon at 3 or 4 A.M. The Police Surgeon gave witness a paper and two cartridges.

There was no cross-examination of the two preceding witnesses.

Dukhiram Dutt. Dukhiram Dutt examined by the Standing Counsel: he said he resided at 46/2, Beniatola Street. On the night of January 19th last, at about 8 P.M. he was standing at about 25 or 28 paces from the place where the Inspector was shot.

Tell me what you saw—A tram-car came and stopped. Nripen Babu alighted and then three boys also alighted. One of them disappeared and the other two boys began to fire at Nripen Babu, after which they also ran towards the south.

Witness identified the accused in the dock as one of the two boys who fired at the Inspector. He saw the boy again in police custody.

Cross-examined by Mr. Norton, witness said that last year he was convicted of theft in a house of ill fame.

The Magistrate sentenced you to three months'

rigorous imprisonment ?—Yes. I was let off by the High Court. Dukhiram Dutt.

You had to serve the whole period ?—I was in jail for two or three days only.

In this case Jogesh Chundra Chuckerbutty deposed against you ?—Yes.

After you saw the occurrrence you described, did you speak to anybody ?—No.

No police officer came to you ?—No. On January 21st a C. I. D. man took me to the thana in custody.

For what ?—I don't know. Some one told the C. I. D. man that I was present during the murder.

What police officer came to you on the 21st ?—He is a Bengali.

You deposed before the Magistrate ?—Yes, I was examined on the 30th.

Who took you there ?—A policeman came to my house on the 29th and gave me the intimation.

You know Head-Constable Abdul Gaffur ?—Yes.

And he knows you ?—Yes.

He comes to your house now and then ?—No.

Did you know Inspector Nripendra Nath Ghose before that day ?—Yes.

Did the tram move when he alighted ?—No. It was standing.

You saw three boys alighting ?—Yes.

All the three had something in their hands ?—Only two of them had something.

How were they dressed ?—The accused had a coat and a black chudder. The other two had only coats on.

They had no wrappers on ?—No.

You saw it ?—Yes, I saw the other accused had no chudder on.

How many shots were fired ?—Three.

Dukhiram Dutt.

Did the Inspector fall at the first shot ?—No.

Was not a second shot fired ?—Yes.

Did he fall then ?—No, he fell down after the third shot was fired which struck him on the temple.

Did you see it ?—No.

After the boys ran way, you went towards the Inspector ?—Yes. The Inspector fell on his left side with one hand under his ear.

Did you see wounds on his body ?—I did not.

Did you see wounds on his head ?—Yes.

The bullet hit him on his right temple ?—Yes.

Is it true that the Inspector was shot before he alighted ?—No.

Is it true that he fell down after the first short was fired and while he was lying on the ground two other shots were fired ?—No.

Can you say who fired which shot ?—No. I saw both of them fire and all the shots hit the Inspector.

Did you hear any more shots fired that night ?—No.

Had the accused a beard that night ?—No. It was shaved that night.

How did the two boys look ?—They were of the same height and the accused was fairer than the other boy.

When you saw the accused under arrest you heard that he was arrested for killing the Inspector and a boy ?—I did not hear anything about the killing of a boy.

Golam Nabi.

Golam Nabi examined by the Standing Counsel.—He said that he resided at Sova Bazar. Formerly he was a cloth dealer but now he had business in horses and dry fruits. At about 8 P.M. on January 19th last he was at the junction of Dharmahatta and Upper Chitpore Road.

Tell us what you saw ?—I saw a tram coming

and taking a turn. Three men alighted from the car. One of them a thin boy held something in his hand. He fired and a Babu with a green wrapper on fell down. As he was shivering, another man fired a second shot and after that a third shot was fired. Golam Nabi

What do you mean by shivering?—He fell down first and then began to shiver.

What happened after he fell down?—Then the other man fired twice.

Do you see here any one of the two men who fired?—Yes (points to the accused in the dock).

What happened after that?—The men after firing began to run away towards Beniatola along Chitpore Road and I ran towards the thana. While I was taking a turn from the crossing, I heard another report. After going to the thana I gave information to the Inspector Mohendra Nath Singh. Some policemen turned out and I followed them.

Did you see the accused in police custody that night?—I was standing near the body of the Inspector at the crossing when I saw the accused in police custody.

Cross-examined by Mr. Norton, witness said he was not a Cabuli. He was not a wrestler but he used to have physical exercises. He did not get any warning from the police, for intimidating the people of the locality.

Were you not convicted last year?—No.

You house was searched for cocaine?—No.

Has your shop been ever searched?—I don't know. The shop does not belong to me.

You said you own four horses?—Yes, I am a horse broker.

Where were you standing at the time of the occurrence?—At the crossing some 8 or 9 paces to the east of the tram line.

Golam Nabi. Who got down first from the car ?—The Inspector.

He got down on the western side of the tram line? —Yes.

After him you saw two others getting down ?—Yes.

All the three got down at the same time ?—There was no report till all of them got down.

Continuing witness said that as soon as the Inspector alighted, the other two men who were seated in the front compartment also got down. When the first shot was fired they were all on the ground. After the first shot was fired the Inspector fell down. After he fell down another man fired two shots.

All the three shots hit him ?—Yes.

Each of the two men had pistols ?—Yes, I saw that.

If you see the pistol now you will be able to identify it ?—Yes.

Are you prepared to identify both those pistols ? I can, because I saw it that night when the accused was arrested and taken to the thana.

Did you touch that pistol ?—No.

Was there anything peculiar in that pistol to arrest your attention ?—No. I did not touch it, then how can I say that ? I saw it only once that night.

Can you identify the other pistol ?—No.

Did you see clearly the pistol that night ?—I saw it from a distance.

Continuing witness said that when the Inspector was shot one of the men who fired at him was on the Inspector's left and the other man was on his right hand side.

You have been called to depose only in this case ?

—Yes, I have not yet been called to depose against anybody else. Golam Nabi.

Then you expect to be called a witness in other cases ?—I have not yet been called.

Continuing witness admitted that he received a reward of Rs. 50 from the police and after that he went to the Alipore jail and he identified an accused person.

Re-examined by the Standing Counsel, witness said that when he went to Alipore jail all the policemen went with him. They were present at the time of the identification.

Mr. Justice Stephen : You identified a wrong man at the Alipore jail ?—I identified a person.

The Foreman : Tell us if any of the three shots was fired by the accused ?—The accused fired the first shot.

There is a gas-lamp on the north side of Grey Street ?—Yes.

Where were you standing taking that as a point ? —I was on the west side.

The court then rose for the day.

EIGHTH DAY

THURSDAY, 5TH MARCH, 1914

Mr. F. J. Lowman.

Mr. F. J. Lowman, Deputy Commissioner of Police, C. I. D., Calcutta, examined by Mr. B. C. Mitter—said that on the 19th January last he received a telephone message about the murder of Inspector Nripendra Nath Ghose. He went to the Kumaritola thana and found the accused in custody. Head Constable Gaffur Khan showed him a revolver and two cartridges (identifies the revolver and two cartridges). He was told that they had been found in the possession of the accused. That evening he saw some of the witnesses in this case besides the policemen. He was at the thana about three-quarters of an hour to an hour. He then proceeded to the mess occupied by the accused at 55, Maniktolla Street to make a search. He went afterwards to Royd Street. On the following morning, he went to the thana and met Mr. Walker. He went with Mr. Walker along the route taken by the accused the previous evening to make certain enquiries and took some brief notes. He took down the names of some persons as witnesses. They were not witnesses in this case.

You have heard in this case of certain indentifications. Can you tell how they were held?—In consequence of the information I received, which resulted in the arrest of two other persons, identifications were held.

Can you give me the details of those parades?—They were held on the 29th January, 10th and 14th February.

The accused in this case was committed on the 23rd?—Yes.

Mr. F. J. Lowman.

Why then were the other two men arrested ?— In consequence of the information, I received. My information was to the effect that.........

Mr. Norton objected and the question was disallowed.

Where were the two men sent ?—One to Kalighat jail and the other to the old Alipore jail.

Was there any connection of that identification in respect of this accused ?—No.

Where was the accused kept ?—In the Presidency jail.

When the parades took place in the jail, where were the policemen ?—Outside the jail. On the last occasion, I was inside the jail, but not in the yard where the identification took place. It was held under the charge of the Joint Magistrate of Alipore.

When you saw the revolver at the thana the chamber was in position ?—Yes.

How did it come to be taken out of the revolver ?—Under the orders of the Chief Presidency Magistrate.

Did any of the cartridges fall out of the chamber?—Yes, two fell out in Court.

Was Abdul Gaffur taken to the jail for identification ?—No. He accompanied some of the witnesses and remained outside the jail.

After the case was started here, did you examine certain witnesses ?—Yes. I examined Mr. Todd, Mr. Taylor and about 10 or 12 Indian witnesses.

Witness produced a diagram showing the position of bullets in the chamber of the revolver.

Cross-examined by Mr. Norton he said that on the 26th an application was made to Mr. Swinhoe to examine certain supplementary witnesses. He did not remember the names of all the witnesses he examined, but he took the statements of some of

Mr. F. J. Lowman. them on Friday last. He attended the High Court until Saturday last.

On which of the cartridges was the hammer resting ?--I cannot tell

In the diagram, you have shown two exploded cartridges ?--Yes.

Is it possible in a discharged pistol for the hammer to rest on a live cartridge ?--I cannot say.

Before you took the diagram did you see on which cartridge the hammer was resting ?—No.

From the diagram there is no possibility of a jam ?—No.

You made experiments with a bullet ?—Yes, at the thana before taking the diagram.

Inspector Lahiri. Rai Saheb Purna Chundra Lahiri, Inspector in charge of the Calcutta Fire Arms Department, was then called by the Standing Counsel. He said he examined this revolver (shown). Revolvers found with the accused persons at a search were kept in court till the disposal of the case and afterwards sent to the Malkhana with a report. If it was not returned to the parties by order of the Magistrates it was destroyed. Indian police officers were not given revolvers for use by the Government. They had to take out licenses unless exempted under the Arms Act.

Cross-examined by Mr. Norton. Were no illegitimate pistols seized in 1908 ?—Not to my knowledge.

An order for destruction is issued by the Magistrate on the Malkhana Inspector ?—Yes.

Inspector Singh. Inspector Mohendra Nath Singh, in charge of the Kumaritola thana, examined by Mr. B. C. Mitter. He said that, on the night of January 19th last, he got certain information from Golam Nabi Pailwan and proceeded to the crossing of Sova Bazar and Upper Chitpore, where he found the dead body of

Inspector Nripendra Nath Ghose. He left the body in charge of a head-constable. There he received information that another person was shot dead at Beniatola. While going to Beniatola he met Gaffur Khan and Radha Sam bringing the accused to the thana Gaffur Khan made over a revolver and cartridges to him. He saw Ananto and sent him to the Mayo Hospital. The accused when brought before him had on the same coat which he was wearing now. Inspector Singh.

Cross-examined by Mr. Norton witness said that he subsequently took Golam Nabi Pailwan to the Alipore Jail to identify the accused who was arrested in connection with this murder.

On January 29th, a man named Suresh Chundra Chaudhuri was arrested ?—I don't know but I heard of his arrest.

Was not that man produced for identification as the accused's companion at the murder ?—I was not present at the identification.

You were not inside the jail ?—I did not go to the place where the identification took place.

The police call it honest identification ?—They call it test indentification. It is done before a Magistrate.

The test identification parades took place in jail for three days ?—Yes.

And some of the witnesses in this case were present ?—Yes.

Did you not hear that Abdul Gaffur and Radha Shyam Singh identified Suresh Chundra Chaudhuri as the companion of the accused ?—I heard that Radha Shyam alone identified him.

Suresh Chundra Chaudhuri in the Raja Bazar Supplementary Bomb Case ?—I don't know.

You saw the men in Jail who had previously been paraded ?—I might have seen one or two.

Inspector Singh...

They had on blue chudders?—Not all of them.

Was not there one man with a yellow chudder on? —I did not go inside the jail.

Continuing, witness said: I think Radha Shyam Singh told me about the chudder at the thana. He told me that he did not see any more of the chudder beyond Sonar Gouranga Lane. He told me that the accused had a black chudder. Debi Gowala and Golam Nabi also spoke to me about the chudder. Abdul Gaffur said that the accused had on a black chudder but he did not see it after Ananta was shot. I told Mr. Walker everything that I heard about the chudder. I searched Sonar Gouranga Lane for the chudder. I heard that four shots were fired. I did not examine the revolver. Mr. Walker pointed out that only two shots had been fired from that pistol. I heard that two persons were implicated and that two revolvers were used. I went along the route taken by the accused in order to recover the second revolver as well as to find the chudder.

You knew that the deceased Inspector had orderlies?—Every police officer has an orderly. The Inspector had two.

That was because his life was threatened?—Yes.

That night he had order lies with him?—No. I made enquiries from his orderlies. One of the orderlies said it was arranged that the Inspector should meet him at Nirode Babu's house.

The orderlies are armed with revolvers?—No. They carry lathies.

Is it true that some of the shopkeepers at Sova Bazar told you that this was not the boy who fied at the Inspector?—Some of the shopkeepers said that they would not be able to identify this accused.

Are you aware that some of the witnesses in this case have bad previous convictions?—Yes.

Inspector Edwards, who is in charge of the Calcutta Police Armoury, said that the arms were kept in the Armoury. There was a register which showed the class of weapons kept there. All the police revolvers were six chambered and were issued to all European Inspectors, Sub-inspectors and Sergeants. Indian police officers were never supplied with revolvers. This revolver (produced) could not be a Government revolver as it was five-chambered. Inspector Edwards.

The witness was not cross-examined.

Head-Constable Fazul Hussain of the Kumaritoli thana said he accompanied the dead body of the Inspector and identified it to the Police Surgeon. He got three bullets from the Police Surgeon and also a shirt and an *alwan* which were on the body of the deceased. H. C. Fazul Hussain.

There was no cross-examination.

Suresh Chundra Sanyal, a Lighting Inspector of the Calcutta Corporation said he remembered the night the Inspector was shot. At about 8 o'clock that night he was at the junction of the Chitpore Road and Ahiritola Street. He saw a man running from Ahiritola Street towards the south. Ten or fifteen paces behind the man were some constables following him and shouting "puckro, puckro." Five or six minutes later, the man was brought under custody. He could not identify the man. S. C. Sanyal

In answer to Mr. Norton he said he was asked to make a statement about six or seven days ago. The request was made at Ahiritola. The man he saw running that night passed on his right.

Did you see that man before that night?—No.

And he ran past?—Yes.

Gopal Chunder Das, owner of a confectionary shop at 315, Upper Chitpore Road, said that on the evening of January 19th last he saw a crowd running and shouting "puckro, puckro." G. C. Das.

G. C. Das. Cross-examined by Mr. Norton—he said that about five or six days ago a European and some Indian Police officers came to his shop to make enquiries. He told them that he knew nothing of the murder of the Inspector. He only heard shouts of "puckro, puckro." He did not see one man running.

D. Bhattacharjee. Dhanudhari Bhattacharjee, an employee in a confectionary shop in Chitpore Road near Sova Bazar, said that on the evening of the 19th January last he saw a crowd running towards the south.

There was no cross-examination

M. Dhur. Manickal Dhur, a packer of boxes at 74, Ahirilola Street, deposed that on the evening of January 19th last he was at the Sova Bazar Crossing and saw three men firing at the Inspector after which they fled with pistol in hand towards the south. He identified the accused.

Cross-examined by Mr. Norton—witness said that he was convicted in 1911 of a theft of gold bangles but was acquitted by the High Court. He was facing east on the opposite footpath when he heard a shot. He then turned towards the west and saw two men standing south of the Inspector and firing at the Inspector who was lying on the ground. The evening was misty, and although he was close to the spot he could not see any one firing any shots nor could he have seen the faces of the two men clearly.

Dr. G. Paramanick. Dr. Gangadhar Paramanick, a private medical practitioner who has a dispensary at 282, Upper Chitpore, said that he saw the dead body of the Inspector lying on the ground with his head towards the east.

Cross-examined by Mr. Norton he said that he did not see the wounds on the body.

The Court then rose for the day.

NINTH DAY

FRIDAY, 6TH MARCH, 1914.

Major H. B. Foster, I.M.S., Police Surgeon, examined by Mr. E. P. Ghosh, said he held a *post-mortem* examination on the dead body of Inspector Nripendra Nath Ghose on January 20th, last. Head Constable Fazlil Hussain identified the body. He found a circular gun shot wound on the top of the head. The bullet which was flattened was found between the brain and the skull. The bullet injured the brain in its course. It was a fatal wound. Major Foster.

In your opinion from what distance could that bullet have been fired?—I cannot say with any degree of certainty, but in my opinion it must have been more than two feet.

Could the deceased have received the wound while he was standing?—Yes, provided the revolver was vertical above his head.

Could the deceased have received that wound while he was lying on the ground?—Yes, if he was lying on his left side.

Continuing Major Foster said that there was another gun shot wound on the left upper arm and also one on the upper side of the left part of the chest. The bullet in this case was embedded in the upper side of the left nipple.

In your opinion how far could the bullet have been fired from?—About 18 or 20 inches; in fact under two feet.

Continuing witness said that there was another gun shot wound in the small of the back. He found this bullet evidently taking a zig-zag course. In his opinion death would not immediately follow this

Major Foster. wound. He extracted three bullets from the body, one from the brain, one from the chest and another from the lumbar region of the spinal cord. Witness identified a shirt and a wrapper on the body of the deceased Inspector and observed that the holes in the shirt corresponded with the wounds but he could not say whether the holes in the wrapper correspond with the wounds as he did not know how the deceased wore the wrapper.

Major Foster then said that he also held a *post-mortem* examination on the body of the boy Ananta Teli. On that body he found a gun shot wound in the bone immediately above the left eye-brow. The bullet passed into the head up to the parital bone and lodged there in the skull. Witness traced the bullet and handed it over to the police. The boy was about twelve years of age.

Cross-examined by Mr. Norton witness said that looking at the sketch handed over to him, of the position in which the dead body of the late Inspector was found, he should say that the shot in the arm must have been fired before he fell down. The body was lying on the left side and the probability was that the wound on the back was also caused before he fell down. The lower wound might be sufficient to cause him to fall, but he could not say with any certainty. The wound on the head would at once make him drop down.

Could the wound on the head be caused while he was alighting on the curb, taking the height of the footboard of the car from the ground as one and a half foot ?

The Standing Counsel objected to the question on the ground that there was no evidence to that effect on the record.

His lordship overruled the objection adding that there was sufficient evidence on that point already on record.

In answer to the question put by Mr. Norton,

witness said that it was very difficult to answer that question without the actual height; but from the nature of the wound, he would rather think that the shot must have been fired from above. If the Inspector was then standing, the revolver must have been at least two feet above his head. Major Foster.

Assuming that the head wound was caused after the fall, the wound must have been caused by a man standing south of him?—No. The man must have been standing almost due west.

Taking that the wound was caused as the Inspector touched the ground, is it possible to cause the wound by a man standing on the car going towards north?—I can't say, but it is possible. But from the position of the body given in the sketch, I should think that it was caused by one standing almost due west.

Regarding the wound on the boy Ananto, witness said that whoever shot him must have fired at him from the direction the boy was looking at. It must have been almost in front and slightly on the left. It could not have been possible by a man standing on the right hand side of the boy.

Dr. Dwijendra Nath Moitra examined by Mr. E. P. Ghosh said he was Resident Surgeon of the Mayo Hospital. On the night of January 19th last, he admitted a boy named Ananta. On examining Ananta he found a wound 1½ inch over the left eyebrow with a hole on the skull just beneath the wound. There was a swelling on the back of the skull and by an incision there he extracted five pieces of bone and a bullet. Witness identified parts of the bullet. Dr. D. Moitra

Continuing, witness said that the boy was unconscious all along and died about half an hour afterwards. He weighed that bullet and found it to be 164 grains.

Cross-examined by Mr. Norton witness said he

sent the bullet to the Jorabagan thana on January 21st through a head constable in a sealed cover.

Fazil Hussain

Fazil Hussain, Head-Constable, Kumartoli thana examined said he kept a register which showed Debi Gowala's duty on January 19th last. On that day Debi was on the crossing of Sova Bazar. Radha Shyam's duty that evening was to watch suspects. Abdul Gaffur's duty was from 6 to 10 P.M.

Cross-examined by Mr. Norton witness said that the following was written in the register :—On the 19th, Debi Gowala on duty at Sova Bazar in the evening and Abdul Gaffur on rounds duty in the jurisdiction. Radha Shyam's duty at 4-45 P.M. to see suspects.

H.V. Eastwell

Mr. H. V. Eastwell, Superintendent of Lighting, Calcutta Corporation, examined by the Standing Counsel said he had examined the lights at the Sova Bazar crossing on the evening of last Sunday. There were two electric lights at the junction of Sova Bazar Street and Upper Chitpore Road and he approximately estimated the candle power at 150 and 100. On the north-east corner there was a Lucas lamp with 700 candle power. He thought the state of light on the crossing was very good.

J. N. Bhattacharjee.

Jogendra Nath Bhattacharjee, recalled and cross-examined by Mr. Norton, said that in 1909, he was convicted in a pick-pocket gang case and sentenced to ten years' rigorous imprisonment. Before that he had five previous convictions. Last December he was prosecuted by Inspector Mahendra Singh for possession of illicit cocaine.

This closed the evidence for the prosecution.

Mr. Norton said that he did not wish to call any witnesses for the defence, but he would rise to raise a point of law as regards the charges. He said that under section 234, the accused could not be charged with two murders together as they were two unconnected transactions. The offences were not punish-

able with the same amount of punishment under the same section of the Indian Penal Code. J. N. Bhattacharjee.

His Lordship, however, did not think that Mr. Norton's contention was right.

The Standing Counsel next suggested that the case might be adjourned till Monday next with a view to have a continuity of the speeches by both the prosecution and the defence as also His Lordship's charge to the jury. Mr. Norton did not object to this course being followed.

The Court adjourned.

TENTH DAY

MONDAY, 9TH MARCH, 1914.

Judge to Standing Counsel.

On the Standing Counsel rising to address the jury, Mr. Justice Stephen said :—

Before you address the jury there is one point I am not quite certain about, and that is about the bullets found in the Inspector's body. There were three in number. Is it your case that one of these was fired by the accused ?

Standing Counsel : No.

Mr. Justice Stephen : What do you say about that ?

Standing Counsel : Your lordship will find in the first place that Mr. Todd says nothing about that. The entire ones are undoubtedly 360. The other one I am not making a case about. I do not say that it was from the 450.

Mr. Justice Stephen : Is that the one that Mr. Todd said was cone based ?—No, my lord.

Mr. Justice Stephen : Do you say that two of these bullets are undoubtedly 360 ?

Standing Counsel : Yes.

Mr. Justice Stephen : What is the evidence about these three ? Is there any evidence about the third bullet ?

Standing Counsel : No, on the contrary, so far as that evidence goes, there is no suggestion that this was from the 450.

Mr. Justice Stephen : I was only asking you about the evidence. As I understand it, nobody has spoken to any of these bullets, but it appears that two of them are 360.

Standing Counsel : With regard to that there is evidence. In Purna Chandra Lahiri's evidence it appears that they are 360. Judge to Standing Counsel.

Mr. Justice Stephen : Mr. Todd did not speak about it.

Standing Counsel : No, it was not shown to him. There is no definite evidence except such as is to be derived from the fact that the bottom is not cone-based, and not only that, the weight of these two is given at 134 grains each.

Mr. Justice Stephen : Who gives the weight?

Standing Counsel : That is in the evidence of Purna Chandra Lahiri. Ex. 6 consists of two entire bullets of 134 grains each and there is a broken one, the weight of which is stated to be 102¼ grains.

Mr. Justice Stephen : This bullet has been proved to be 102¼ grains.

Standing Counsel : Two entire bullets are 134 grains each and a portion of a bullet that was found is 102¼ grains. There is no question of their being cone-based or otherwise with regard to these three. That was only with regard to the bullet found in the body of Ananta Teli.

CLOSING SPEECH FOR PROSECUTION

The Standing Counsel then commenced his address to the jury. Standing Counsel.

After defining murder and culpable homicide, he said :—

I will in this case follow a course which has often been followed in the investigation of facts ; namely, I will first take those facts which are either admitted or established or with regard to which there is no reasonable doubt. Taking these facts as the basis of our investigation we will then proceed to examine the evidence and see how far the disputed

Standing Counsel.

portion of the evidence fits in either with the admitted or established facts of the case, because this is very helpful in the elucidation of the truth.

First of all, in this case, there is no doubt, gentlemen, that Ananta Teli died. There can be no question with regard to that. If Ananta Teli died that day, let us see whether he would have met with his death unless he had offered some resistance to a person running through Sonar Gouranga Temple Lane. There is no reason why any shot should have been fired at Ananta Teli particularly at his forehead. That shows or at least it is my submission to you that it indicates a strong probability that some resistance was offered to a person who was running away. Otherwise, gentlemen, why should there be any reason for a shot being fired at Ananta Teli? Therefore, I ask you to pause for a moment in considering this fact. The fact that this little boy was killed suggests or gives rise to a strong probability that someone who was running away was obstructed in some way or other.

Would there have been any obstruction offered to the accused by either Ganga or Ananta, unless they were apprised of the fact that there was a chase going on or that someone was running away? Therefore, if there was any resistance offered to the person who was running away, that gives rise to a strong inference that Ananta and Ganga must have heard some shouts or that they came to know at that time that some one was running away; otherwise, why should they have tried to catch him or obstruct him or offer some kind of resistance? I say that unless some kind of resistance was offered the man, there would have been no occasion for this firing. Therefore the very fact of the firing, gentlemen, indicates, a strong probability that there was somebody running away. Ananta and Ganga would not have known about someone running away unless their attention was drawn to him or they would not

Standing Counsel.

have had time to catch this man unless they heard some shouts or saw the chase. Therefore from these two facts there can hardly be any doubt (of course it is always open for you to say whether there is any doubt or not) that there is a strong probability that a chase was going on at the time and a man was running away through Sonar Gouranga Temple Lane. I am not now going into the evidence in detail. I shall do so later on. I am now only dealing with these two facts with regard to which there can hardly be any reasonable doubt. Therefore, from the fact of Ananta Teli being shot we get it that there must have been some resistance offered to the man who was running away.

From this fact you have the very strong probability indicating that there was a chase, otherwise they would not have resisted the man running away and there would not have been these shots fired, and if we find that there was a chase, then the next thing I ask you to consider is, where could that chase have begun? It has been clearly established that the Inspector was shot. He was shot at the crossing. If you find that immediately after that a chase is taking place, I ask you to consider as reasonable men whether you would not come to the conclusion that the chase actually started at that point. Therefore if you have a chase at that time and going along the route indicated by the one taken by the person who shot Ananta (I am not now saying who this man is) you can have little doubt that it must have begun from that crossing.

Now if the chase was going on who were the persons likely to take part in it? You have it in evidence that Debi Gowala was on duty at that crossing for three or four months. Therefore, you have it that Debi Gowala was there. He was one of the persons to go upon that chase. If Radha Shyam Singh was there he is also one of the persons to give chase. Therefore the evidence of these persons with which

Standing Counsel.

I shall deal as briefly as possible, is strongly corroborated by the circumstances of the case. The duty book was produced. It only shows that he was at Sova-Bazar. Further details will not appear there. With regard to Radha Shyam Singh, we remember that the duty book shows that on the 19th he had gone to watch that place at 4-30. The entry of January 17th also gives a similar story. With regard to him, it does not appear from the book when he returned. That is why I put in the other entry to show that this was the ordinary course. If these two people were there, I submit that the circumstances of the case strongly corroborate their stories that they were present there, and therefore they were likely to have gone on in this chase.

Then let us see where that chase ended. Now if the man who had shot Ananta Teli was going through Sonar Gouranga Temple Lane and he was being pursued, it is highly probable that his pursuers would only pursue so long as they did not lose sight of him. I am not now talking about turning corners and so on, but looking at the matter broadly the persons pursuing will only run so long as the person pursued is in sight and they have not lost sight of him. There is no suggestion that there was more than one person who was being chased except of course, the man with the yellow chudder, but I am not bringing him in here, because the evidence is that he was lost sight of at a point in Upper Chitpore Road. I am speaking of the chase in Sonar Gouranga Lane. There is no suggestion that there was a chase here with regard to more than one man. Would these men who were pursuing him have continued their chase up to Musjid Bari Street, if the man had in the meantime been lost sight of? We have it that the accused was arrested in Musjid Bari Street; this is also the case for the defence, because you will probably remember, gentlemen, that it was put to Mono Dutt first as to whether he did not

relieve the accused of his wrist watch, ring, and other articles which Mono Dutt denied, and with regard to which there was not a tittle of evidence to support the suggestion. It was also put to Sree Dousad that he and Mono Dutt together relieved the accused of certain of his things, *viz.*, a watch, a ring, four rupees and handkerchief, if I remember aright. Therefore according to the defence, the chase, wherever it was, terminated in Musjid Bari Street. It did not go beyond it. Their case also is that this man was arrested at or about the place where we say he was arrested.

Standing Counsel.

Now, there is one point which, although I shall have to deal with it somewhat more fully later on, I might mention here. It is not the case of the defence that the man who was arrested in Musjid Bari Street was relieved of his chudder there ; but a good deal has been made of the chudder and I shall deal with that suggestion of the defence later on. Suffice it for me to say now that it is not their case that the accused was relieved of his chudder in Musjid Bari Street. The accused, according to Mr. Lowman, lives in Manicktola, and it is for you to consider what he was doing without his chudder in Musjid Bari Street that night in midwinter on January 19th one of the coldest months in the year. Is it likely that, if his presence was merely accidental there, and that the chudder had not been thrown away—as the case for the prosecution is—is it likely that he would have been there without his chudder, overcoat or alwan at that time of the night ? He does not suggest that he was relieved of his alwan or chudder by Monodutt or Sewdutt Roy or anyone. I shall have to ask you to consider that point in another connexion when I shall have to deal more fully with the suggestions of the defence. What was this man whose house is at Manicktola doing in Musjid Bari Street, in the middle of the winter without his chudder at that hour of the night ? What is

Standing Counsel.

the theory they suggest? I have heard none. No explanation has been offered with regard to that. The case for the prosecution is that after the boy was shot the chudder was lost sight of. It is a black chudder. If it was thrown away, the attention of the pursuers being directed upon the man, and there being one or two winding lanes, as my friend has described the place, it might have been thrown into a corner and it would not catch the eye. It would be likely that he would throw away the chudder which, as has already been proved, had been a hindrance to him because an attempt had been made to catch him by that chudder when Ananta Teli was killed. Experience would make him throw away the chudder.

Now to go back to the point to which I was drawing your attention—we find that it is their case also that the accused was arrested in Musjid Bari Street, and it is their case also that he was not relieved of his chudder. Therefore, you see that this fact instead of being against the prosecution is, I venture to submit, a fact in favour of the prosecution, *viz.*, the man being without his chudder there. It is for you to say, gentlemen, whether it is not your ordinary experience of the people of this country that in mid-winter they wear above their ordinary clothes an alwan or chudder. Therefore, I submit that apart from the evidence in the case it is a thing in favour of the prosecution. The route of the chase is practically established from the facts. The Inspector was shot at the crossing, and one of these men must have been the person who shot Ananta Teli, so he must have turned into Beniatola Street. The route established starts from the crossing of Sovabazar to Sonar Gouranga Lane. Then you have evidence that the chase was seen at the crossing of Ahiritola Street and Upper Chitpore Road. The Light Inspector, Suresh Chandra, and two other witnesses, who were examined in this Court, also

deposed to the fact. The Light Inspector, Suresh, is a respectable man holding a responsible position. and, although he cannot identify the accused, he says that in the course of his duty daily he has got to be at or about that time at that crossing of Ahiritola for the purpose of meeting his supervisor. That is his evidence, and, being cross-examined, he tells you of a certain conversation between Mr. Lowman and another gentleman, in the course of which Mr. Lowman came to know of this fact. Mr. Lowman examined him on Friday, that is, to say two days after this case had begun. Mr. Norton will no doubt say that this evidence has been produced somewhat late. But it is impossible for the prosecution to anticipate all the suggestions that may be brought forward by the defence. The suggestion has now been made that a man must have escaped somewhere between point F. where Ananta Teli was shot and the end of Ahiritola Street. This is a suggestion that has been put forward here, and under these circumstances if any evidence is forthcoming it is the duty of the prosecution to put that before you.

Standing Counsel.

Mr. Norton is no doubt entitled to say that the evidence is somewhat late and that it has been produced in this Court for the first time. There is a matter which you will no doubt consider, but does the lateness of the evidence go to show that it is not true? He was examined by Mr. Lowman. He holds a very responsible position and I submit that there is no reason (it is always for you to say whether there is any) why the evidence of Suresh should not be accepted. The other two men are Dhanukdhari and Gopal Chandra Das whose shops are between the crossing at Ahiritola and Musjid Bari Street, on the Upper Chitpore Road. The evidence of Suresh was that he was at the crossing a little to the north. Now the last two witnesses merely proved that there was a chase and a crowd

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and nothing more. Suresh is the person who had a better opportunity of observing because he was at the crossing and he tells you that the man was followed by some person amongst whom there were police-men. He was waiting for his supervisor, and it is established that at or about that time there was a chase going on between Ahiritola and Musjid Bari Street. Now if this evidence is believed it establishes the chase from Musjid Bari Street being continued in Upper Chitpore Road down to the south. Therefore, the suggestion that the man who fired the shot at Ananta and disappeared, goes. The witness said, "Mr. Lowman came down......I have seen what I have stated there." If you look at the plan, it was suggested that there was a gully proceeding out of the lane slightly to the north. The evident suggestion there is that the person who had shot Ananta might have escaped through it. But the evidence if you believe it is that the chase went south. Therefore, that suggestion will not do. Gopal Chandra Das speaks very generally.

Somewhat to the same effect is the evidence of Dhanukdhari except that I do not think he says anything about the police. Does this or does this not show that a man was running pursued by others through Upper Chitpore Road southwards? If that was so, then taken along with the fact that a person was arrested in Musjid Bari Street, it is fairly established before you, I submit, that the chase continued from the crossing of Sovabazar Street in Chitpore Road through Sonar Gouranga Temple Lane and Rajkishore Dey's Lane and came to an end in Musjid Bari Street. I do not think any evidence is given by measurement as to what the exact distance is; but you can find out by the scale of the plan, what the distance is. It may be suggested that the route was very long, but if the man who was running away ran that distance, is there any reason why his pursuers should not?

I am now taking briefly the facts, as they appeared on the face of the case. No substantive case has been put forward as to how the accused came to the Musjid Bari Street without an alwan at that time. A vague suggestion has been made as to whether the street is not full of prostitutes, the underlying suggestion there being that the accused might have been coming out from one of the houses of these prostitutes No doubt, it is not incumbent upon the accused to make any substantive case. He is entitled to rely upon the weakness of the case for the prosecution He is entitled to say : " It is not for me to say where I was. You prove your case. You cannot convict me unless you prove your case strictly." This is open to the accused, but at the same time if there are suspicious circumstances in connection with the accused, it has often been said that if no reasonable explanation is given with regard to these circumstances with a view to clear away the suspicions, the matter may be legitimately taken into consideration by the jury. The only suggestion that is made is that he was relieved of a wrist watch, a ring, four rupees and a handkerchief. This remains a mere suggestion. There is no evidence with regard to that. Suggestions may be made, but you must not mistake suggestions for evidence. What would be the attitude of this man if he was actually taken charge of by *goondas*, relieved of his wrist watch and other valuables ? Would he not at the first opportunity, say "instead of my being accused I am the accuser here ; these two men have relieved me of my property, why should I be arrested ?" What would be the ordinary conduct of a man who was innocent and who was coming out of a particular place and was arrested by the *goondas* at 8 o'clock at night, in a crowded street. What would be the attitude of that man ? Would he not say at once to the police as soon as the police arrive :—" I have been robbed of my articles."

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The evidence in the case is as if no complaint was made. I asked Mr. Walker about it and he said no complaint was made to him or to any one. Mr. Norton, with his great and undoubted skill, has continued to make vague suggestions. He said, "Did he not complain to the police ?" Does that convey to your mind as to whether the complaint was made to the Police Commissioner or to an ordinary constable ? If he did complain whom did he complain to ? He does not specify that. He simply said that accused complained to the police. What would be the attitude of a man, I ask you gentlemen to consider, if, as his case is, he was instantly and suddenly pounced upon by Sridosad and Mono Dutt for no reason whatsoever and relieved of his watch and other things, and was held by a number of policemen ? What would be his attitude ? Would he not make some complaint ? Who is it that as soon as a man is arrested a large number of people including the policemen arrived at the scene and took charge of him ? Suggestions are made. It is very easy to make suggestions, but it is for you to consider whether there is any foundation or any fact which gives any reality to suggestions of that kind.

Now, gentlemen, I have briefly told you the circumstances of the case and I shall have to trespass upon your time, because this case has gone on for days. My plan at present is not to trouble you so much by reading extracts from the evidence as to take you along the broad features of this case.

The next thing we find is that on the accused being arrested there were things found upon his possession, *viz.*, a revolver, and two misfired cartridges in his pocket. This, gentlemen, I venture to say, is the crux of the case. If you believe that story, the prosecution has upon this point substantially established the case. In every true case there must be some minor discrepancies. But if our

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evidence is believed, if this story of the prosecution upon this point is substantially true, then together with the facts of the pursuits and the case, I venture to put it to you that it is only for you to come to the conclusion as to whether the accused was not the man who was responsible for the murder of Ananta Teli. If, on the other hand, there is in your minds any reasonable, well-grounded doubts as regards the finding of the revolvers and the cartridges in the possession of the accused, I am not here to ask you to-day to convict that man. That, I say, is the crux of the whole case. Do you believe the story of the prosecution upon this point ?

Before we deal with the details of the evidence, let us see what facts are proved, as I venture to submit, beyond doubt ? When I say beyond doubt, I only make use of an expression It is always open to you to say whether or not a fact is proved. I am expressing no opinion. Now with regard to this, let us see what facts are established and what are highly probable and let us see how they fit in with the respective cases of the prosecution and of the defence. Now it is stated by Mr. Walker that he received a telephonic message at 8-15 at his thana and thereupon he cycled down in his motor cycle to the crossing He said it would take him 5 or 6 minutes on his cycle. Then after waiting there for a little time, he goes to the thana and finds on the table at the thana this revolver and the two cartridges alleged, I will say, to have been recovered from the possession of the accused. Mr. Walker says that it was shortly after half-past eight when he went there and there is no cross-examination upon that point by the defence. Now, how could Mohendra have produced a revolver and two cartridges on the table within that short space of time ? The revolver had two discharged cartridge in it. Now, let us examine the various suggestions that had, been made with regard to this. This I consider to be the most im-

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portant part of the case. It was suggested to Mr. Walker that the ·450 bore is an exclusively police bore.

Mr. Norton : I did not make that suggestion. It is not my case.

Standing Counsel : Didn't you ? Well, I will read your cross examination.

Mr. Norton : I simply asked him if it was serviceable and he said " yes."

Standing Counsel : This is what you asked.

Mr. Justice Stephen : I think these questions have reference to the cartridges rather than to the pistol. His point was that any one could come by these cartridges.

Mr. Norton : I never wished to suggest that it was a Government pistol.

Mr. Justice Stephen : After all, it is more a question of what the witness said than of what counsel asked.

Standing Counsel : As I understand it, he has got to explain the possession of the revolver and these cartridges. Therefore he is trying my Lord to explain one portion with regard to that by the suggestion that the ·450 bore is a common bore. It would be a fantastical suggestion that the revolver belonged to one person and the cartridges belonged to another. Now, gentlemen, as I understand it, the first suggestion that was made was that the revolver and these cartridges were easily procurable by Inspector Mohendra.

Mr. Justice Stephen : I do not want to anticipate your argument, but I understood that what you wanted to show was that Mohendra might easily have come by these cartridges. He does that by showing that the ordinary Government bore is ·450 the cartridge being ·450.

Standing Counsel : How will that help in the case ? So far as the bore is concerned, it may be so,

but what about the revolver ? Let me deal with it in my own way, as it strikes me. I do not quite understand what he wants to show by this. He cannot gain anything by making these suggestions about the cartridges without at the same time dealing with the revolver. If your Lordship will remember Mr. Todd's evidence with regard to the indentation mark on the revolver— Standing Counsel.

Mr. Justice Stephen : I particularly do not want to anticipate anything which you say.

Standing Counsel : The first suggestion was that it was possible to produce the revolver and the cartridges, because Mohendra might be in possession of them, and it was suggested that these cartridges were of ·450 bore, which is the Government bore. Now, I will first of all take the question of the revolver and afterwards deal with the cartridges.

Was it at all possible for Mohendra in that short space of time to have produced that revolver upon the thana table ? In the first place, you will remember from the evidence of Purna Chandra Lahiri that Indian Police Officers are not given any revolvers by the Government, that they have like other persons to apply for a license. That license can only be given when weapons are numbered. You find that a register is kept of such licenses and that Mohendra had himself, taken a license. Now if you have all these facts, how can that revolver come into the possession of Mohendra legitimately ? You have evidence that they are not allowed to keep any unlicensed or unnumbered revolvers. Then also you will remember that the evidence of Mr. Todd is that this revolver had never any number marked on it. There are no marks of erasure. It is not as if there were marks at one time or other. It is a fact that is certainly worthy of your consideration and I ask you to consider it, that when Mohendra was in the box no suggestion whatsoever with regard to the revolver having been planted by

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him on the accused was made. There is absolutely no suggestions of this. You will see that the case that they make upon this point is exceedingly vague. It was put simply like this : "I put it to you as a fact," but it was not put to Mohendra. All this was put to Radha Shyam Singh, but as to Mohendra who is a responsible person and a responsible officer, there is not a single suggestion of this kind put to him at all. Therefore, gentlemen, I submit to you that the chances of Mohendra having a revolver of this kind are absolutely gone. He is not permitted to keep any unlicensed revolver. According to the evidence a census was taken in 1911 when every weapon was numbered and therefore any weapons in the possession of Mohendra would be known.

Now I come to the question of the cartridges. I will just read to you a portion of the evidence. It was a question put by one of you, gentlemen of the jury. "Is there any identification mark on the cartridges......made by the striker ?" Therefore, if you accept that evidence, it comes to this that not only is there the production of this revolver by the police within such a short time, but it is also proved that it is highly probable that these two other cartridges said to be found in the pocket of the accused were also misfire cartridges from this very revolver. Now let us see how Mohendra could possibly have produced that revolver at the Thana. The evidence is that information was given at the thana by Golam Nabi shortly before 8-15 p.m. Mr. Walker says that he received a telephone message at about 8-15 p.m., and there at the thana upon information given to him Mohendra goes out at once. This is the evidence, that he has only at that time heard of a policeman being shot but he is not quite sure. He had not at that time even heard that any person had been arrested. Is it at all a credible suggestion that immediately there and then Mohendra began to

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concoct evidence? The time that elapsed between this and the arrival of Mr. Walker at the thana is very short indeed. Mr. Walker comes there at nearly half-past-eight. He had to go to Sonar Gouranga's lane, and as he was going down he met this party, the accused being carried along in custody by Goffur Jemadar and other people at the crossing near Beneatola and then he walks back to the thana with them. Therefore, the time between the two arrivals at the thana must be very very short. Why was not Mohendra cross-examined under the point that it was he who produced it at the thana? Are you going to be asked to accept such a suggestion when it has not even been put to Mohendra when he was in the box?

Then again, so far as Ananta Teli is concerned, he was not even dead at the time The evidence is that he died at half-past-ten. Mohendra knew nothing at all when he started from the thana. The Teli boy does not die at half-past-ten and the bullet is not extracted till the next day and yet Mohendra is said to have been a party to the production of the revolver and these two cartridges. These two cartridges as I read Mr. Todd's evidence, is that they were misfires from this very revolver. Yet Mohendra produced all that in this incredibly short space of time.

Further, there would have been great risk in producing any revolver whether it had been recently fired or not. Of course, there is no evidence whether this revolver was recently fired or not, yet anyone of the highest officials who went there might have tested it at any time. So you see what the risk was that Mohendra would have been running, and why should he do that? He could not then have known by any means what the weight of the bullet would be that would be found in Ananta Teli's body. Then as regards the conversation, the evidence is as follows:—" Are you in a position to swear that your

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conversation with Mohendra must necessarily have reached his ears . . . . did anyone speak to him in your presence?" Whether it reached his ears or not, I am not so much upon that point just now. We have it that immediately and shortly after this Mohendra tells Mr. Walker that the revolver and the cartridges had been taken from the possession of the accused. Now you have also heard from the evidence of Abdul Guffur and Mr. Lowman about this. Mr. Lowman says that he heard at once from Abdul Guffur that the revolver and cartridges were found in the possession of the accused. "Did you hear from Abdul Guffur where he got them from?—He said that he got them from the possession of the accused." From all this I venture to submit that it would have been very difficult for Mohendra, even if he wanted to do so, to produce that revolver and its cartridges, and that in a very short space of time.

Then there is another suggestion which has been very vaguely made also. This is that the revolver might have been obtained by the police, it having been thrown away by the person who shot Ananta Teli, and that person not being the accused, that the police might have obtained it when they were pursuing him or after. Now gentlemen, is that at all a credible story? In the first place, the man who shot Ananta Teli found that the revolver was of the utmost use to him in warding off pursuers. There was a chase behind him which was going on. He must have felt that at that time a large number of people had already seen him both at the crossing and along the route through Sonar Gouranga Temple Lane. He would, therefore, apprehend that he might be spotted by any of this large number of persons at any time, that is to say, almost immediately. Under these circumstances, is it at all likely that he would throw away the revolver which was so useful to him, and that he did throw away the revolver

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that he would throw away the very cartridges at the same place? Then if he did do so, would it be possible for the police to find them in that very short space of time and recover both the revolver and the cartridges, and cartridges like those? Therefore, I submit that if my friend makes any suggestion like that, it is a suggestion which will not carry any weight with you. As I was saying, the case might have been different if he was walking about leisurely or if no one was in sight if he was not being pursued and if there was no danger of his being caught he might perhaps have done so. But there was the fact that there was a hot pursuit after him, and it was a thing that I submit to you he would never do. What I rely upon more so is that it would be impossible for the police to find it in such a short time, to recover both the cartridges and the pistol immediately. I have already read to you the evidence of Mr. Todd and the answer which he gave to a question put by one of the gentlemen of the jury that the two cartridges are misfire cartridges and that the mark of the misfire on the cartridges corresponded with the peculiar nose of the striker upon this particular revolver.

Then it was suggested that in some of these cases, and the Alipore Bomb case was mentioned, revolvers of 450 bore were recovered In the first place, there is no evidence upon that point. Then again you have it from the evidence of Purna Chandra Lahiri that where revolvers are taken possession of by the police during the investigation of a case they are entered in the thana-book. During the progress of the case they are sent on to the malkhana where an entry is made. After the case is disposed of, if the person to whom it belongs wins the case then it is returned to him, otherwise it is sent to the arsenal for destruction. Then Mr. Norton cross-examined him and asked him "you don't carry them yourself?" and he said "no, but I always get receipts for the arti-

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cles—confiscated articles that I send." Therefore it cannot be suggested that there would be any of these weapons in the possession of the police.

Then Mohendra was cross-examined as to whether two orderlies who were attached to Nripendra were not armed. I understand that there is some kind of suggestion underlying that question, that the revolver might have belonged to them or that the orderlies might have possession of revolvers and cartridges. Mohendra stated that the orderlies were not given revolvers or cartridges, but they were armed with lathies. You have further the evidence of Mr. Edwards who had sworn that no revolvers are given to the Indian officers. Therefore that suggestion has also gone. There is also no evidence whatsoever that Mohendra has ever had any connection with any case like the Alipore Bomb Case or any other case of that character. Therefore, I submit to you that taking all these facts together, there is not the slightest ground for any of these suggestions. No reasonable hypothesis has been put forward before you from which you can come to any such conclusion or that you can have any well-grounded doubt raised in your mind that this revolver and these cartridges could have been surreptitiously introduced by the police.

Therefore the evidence stands in this way with regard to that. Mohendra has got to take out a license, and his revolver will be numbered and it would be very easy to trace it from that. The second suggestion I have also dealt with and I have further dealt with the third. Therefore there is no reasonable hypothesis with regard to any of these suggestions.

Now leaving these suggestions aside what is the actual evidence upon this point? You have upon this point the evidence of Mono Dutt Pande, of Sri Dosad, of Debi Borai, the *panwalla* at the place where the arrest took place, the evidence of Radha

Shyam Singh, of Debi Gowala, Abdul Guffur, Ram Bhujan and Jogendra Bhattacharjee. Standing Counsel.

I shall have later on to give you a few more details about the evidence of these men, but I am going just now only to remind you as to what the general nature of the evidence upon that point is. It is that the accused turned into Musjid Bari Street, from Upper Chitpore, and as he did so, Sri Dosad attempted to catch him. Upon that he pointed his pistol at Sri Dosad, and went on a little further, and Mono Dutt seized him shortly after. It is very difficult to measure the exact time Radha Shyam Singh arrived and Abdul Guffur came later on. There was a search and at the search were found two bullets from the pocket of the accused, and Sri Dosad made over the revolver which he snatched away from the accused when Mono Dutt had arrested him, to Abdul Guffur. Then the accused was taken under arrest, and he was being taken towards the thana, and while they were on their way they were met by Mohendra.

There is one point to which I shall briefly refer. It has been said: "Why didn't you wait to get some *bhadralogs* to come in? There are doctors and engineers living at a short distance from there." The suggestion is, why didn't we get them? Would the police be expected ordinarily under the circumstances of this case to do so, instead of making the search there and then. It is not a question of a search being made in pursuance of a search-warrant by a magistrate where witnesses are required to attest searches. The search had to be made then and there. There was a large crowd, and why should the police assume that everything they did would be disbelieved afterwards. The search was effected by the Head Constable, and there were two or three other Constables present there, and it cannot be expected that they would have in any way anticipated the

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extraordinary ingenuity displayed by my friend, Mr. Norton.

We know that the weight of the bullet extracted by Dr. Moitra, or rather that portion of it that was extracted by him was 164 grains—I mean from Ananta Teli's body. We know also that the small portion extracted by Dr. Foster was 40 grains in weight. The two together came to 204 grains. We have it from the evidence of Dr. Foster that there would be other minute particles left which it would be impossible to find without going through the process of chemical analysis. That part of his evidence was not cross-examined upon. Now we have it from the evidence of Mr. Todd that there is no other kind of bullet in this country between 200 and 225 grains except the ·442 and ·450. The ·442 is a flat-based bullet and the ·450 is a cone or cup-based, one. This particular one is cone or cup-based therefore it cannot be a ·442 bullet. Therefore it must be a ·450. Therefore, you find that two pieces of the bullet extracted from the body of Ananta Teli must be of ·450 bore and its weight would be 225 grains. There is nothing in between these two bullets. There is only one that fits in with this revolver, and Mohendra could not have known this at that time because the bullet had not been extracted. Therefore, you may leave out of consideration that suggestion. There is nothing solid underlying it. It is a vague suggestion that has been made, namely, that the bullet must have been surreptitiously introduced at the thana. Is there anything in it? If there is nothing in it as I submit to you, then you have to first of all find that the chase begins from the Sova Bazar crossing, and that one of these two men runs down Sonar Gouranga Temple Lane, that an attempt is made to stop his progress, that the boy is shot down, that the chase continues through the other parts of the route to Musjid Bari Street where the man is arrest-

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ed without an alwan or chudder in midwinter, and there is found in his possession this revolver and these two cartridges which were in his pocket misfires but capable of being used afterwards. If you come to this conclusion, if you say you are satisfied that the revolver was found in this boy's possession with these two cartridges, and if the bullet extracted from the body of Ananta Teli corresponds or fits in with the bore of the revolver, I ask you, as reasonable men, whether you can entertain any reasonable doubt that it was the accused who fired that fatal shot.

Now, over and above that, there is a large body of evidence of witnesses who identifies him as the person who shot Ananta Teli. Their names are Radha Shyam Singh, Debi Gowala, Ram Bhujan, Abdul Guffur, Bhola Kalwar, Sri Borai, Sewdutt Dobey, Jaggurnath Kalwar, Jogendra Nath Bhuttacharjee and Ganga Teli. Radha Shyam Singh, was, as you remember, a plain-clothed constable. Debi Goala was on duty at the crossing. Ram Bhujan, you will remember, was according to the evidence on duty till about 8 P.M. at Ahiritola watching suspects, and that at the end of that time when his duty was over, he was going back from Upper Chitpur Road when he saw two men coming and a shot was fired. He could not see the other man and then he gave chase to this man, and he followed him and came up to Musjid Bari Street.

Abdul Guffur was the Head Constable who, according to the evidence, was on his round. He had gone through Beneatola Street and shortly before, passed the crossing of Beneatola and Sonar Gouranga Temple lane. He was a few feet to the west of that gas lamp when he heard the cry of *pakro, pakro*, and saw behind him this man entering Sonar Gouranga Lane and he also gave chase. Bhola Kalwar is the occupant of the *thakurbari* and having heard the noise he went into the street and saw

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this man passing. Sewdutt Dobey is employed under Bhola Kalwar, and he saw the accused in Beneatola Street. Sri Borai is the *panwallah* in front of these shop Ananta was fired at. Jaggurnath Kahar has got a *pan* shop in Beneatola and Chitpur, Juggurnath lives in Ahiritola. He says that he was passing through Sonar Gouranga Temple Lane and saw the accused turn into it. Then there is Ganga Teli, who was next to Ananta, when he was killed, and whose finger was injured. The evidence is that he was sent to the hospital dressed and discharged.

There are one or two observations which I should have made but which I have omitted to make, and that is with regard to the order in which the cartridges were found in the chambers of the revolver. Mr. Walker's evidence is that his recollection is that the order was first a discharge, second a loaded, third a discharge, fourth a mis-fire, fifth a loaded. He said that this is his recollection, but he was not very clear upon it. After Mr. Walker's evidence Mr. Lowman says that he found a diagram which he had himself made amongst his papers. That diagram corroborated Mr. Walker's recollection. That diagram was produced, and its production shows the complete *bona fide* of Mr. Lowman, because if he did not produce it the evidence of Mr. Walker would have remained in a very vague condition. Mr. Lowman says that he found it, and produced it, and he also says that it was by the order of Mr. Swinhoe, the chamber was taken out from the revolver. It was being handled in court and two of these cartridges had fallen out accidentally in the court. Mr. Lowman's veracity has not been challenged, and indeed could not be challenged, because he was absolutely straightforward about this matter, and if he was not, he need not have said anything about the diagram. /The diagram, as I have said, puts the loaded or misfire cartridge between two discharged ones.

Mr. Todd's evidence shows how easy it is for a cheap class of revolver like this to jump over one loaded cartridge. He assigned three different reasons which will account for it. The first is a slight pull of the trigger without engaging the hammer, which might revolve the chamber so that one cartridge may be passed over. Secondly, he said that it might jump more than one chamber at a time when a person fired this revolver, and the result would be to pass over one loaded cartridge. Lastly he said that the chamber might revolve by brushing up against one's coat or chudder. Standing Counsel.

Then he also tells you that in his opinion the smaller of the two pieces of the bullet found in the body of Ananta Teli, *viz.*, that of 40 grains, which was extracted by Major Foster, has got a mark which strikingly resembles the rifling of the barrel of this revolver. He also tells you that this revolver has no marks upon it to show that any number has been erased. That briefly is his evidence. Now upon this evidence if you believe that the accused is the person who fired the shot that killed Ananta Teli, then will arise the question of his complicity in the murder of the Inspector. If I have not been able to convince you that it was he who killed Ananta Teli, then I will not suggest that you can convict him of the murder of Nripendra. If, on the other hand, you come to the conclusion that it was he who shot Ananta Teli, then how does the question stand before you? You have the fact that the Inspector is killed at the crossing, that there were two men who were firing there, or present when the Inspector was killed that they ran towards the south pursued by other people, that one of them entered Sonar Gouranga Lane and killed Ananta Teli. If this is so, then it seems to me that the inference would be irresistibly strong that the man who killed Ananta is one of the two men who were at the crossing with revolvers in their hands, firing these revolvers at the Inspector.

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Therefore, so far as the case of the murder of the Inspector is concerned, it has got to be taken in connection with Ananta Teli's death. If he is connected with the murder of Ananta Teli, then the evidence makes it fairly clear before you that he was one of these two men.

There are a large number of witnesses who identify him at the crossing.

Mr. Justice Stephen: Then you have the evidence of the police-men ?

Standing Counsel: I have already mentioned them in another connection. I am not going to trouble by reading the evidence of these men. You have heard them and you have heard their cross-examination at great length, and it is for you to say whether they are witnesses of truth or not. You must remember this, that the occurrence took place on January 19th, last, and these witnesses had an opportunity of seeing the man shortly after. The trial began on the 22nd, so that there was no difficulty on their part in identifying the accused. The question is are they telling the truth ?

The drift, as I understand, of Mr. Norton's cross-examination, with regard to some of them is that they were not there. The suggestion with regard to others would be that they would not be able to identify, but that they are falsely identifying the accused here. This is a matter essentially for you, as to whether you think that these witnesses have attempted to tell the truth.

As I said before, I am not going to take you through the whole of this case because it will never end if I do so. I will only pick out a few points which I take it Mr. Norton relies strongly upon. Take the case of Abdul Guffur. If the recording Magistrate leaves out a single word the sense is altered, and the consequence is that it makes it different from what he stated in the police

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Court to what he stated here. Is it a reasonable way of looking at the evidence and criticising it in that way? In the case of witnesses of this class they cannot carry in their minds the exact sequence of events. You will have to bear that in mind in considering these so-called discrepancies between the evidence given here and that in the Court below

Now, I will place before you a general outline of the case for the prosecution, I have told you how the chase began and how it was continued through Sonar Gouranga Temple Lane, through Rajkristo Dass' Lane, and Ahiritola Street into Chitpur Road, and terminated in Musjid Bari Street. I have shown you by the evidence of Suresh and the other two witnesses how it got into Musjid Bari Street I have also shown you how the accused was arrested by Mono Dutt and Sri Dousad. I have also shown you that the accused was without an alwan. I have shown you that there was no complaint made by him of his having been robbed. I have shown you that in his possession were found this revolver, and in his pocket were found two misfire cartridges which had at one time been used in this very revolver, and that they were live cartridges. I have further shown you that they were made over to Abdul Guffur by Mono Dutt, and that Mohendra met them on the way and took them and produced them before Mr. Walker within a very short time. I have given you my reason for the submission that I make that it was very improbable that Mohendra could have got that revolver except in the way that is deposed to by the witnesses. All these witnesses have been very strongly corroborated by the facts and circumstances in this case. There is no number on the revolver and these cartridges had evidently been in this revolver before. I have given you briefly what the witnesses have said, and I ask you to consider whether it is not reasonably proved that the accused was the man who shot Ananta Teli. You will not forget that the bases of

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the bullet extracted correspond to the rifling of the revolver. Having got all this evidence before you, it will be for you to say whether it is not reasonably clear to your mind that the accused caused the death of Ananta Teli. If you believe that he was guilty of that, then only will arise the question of the murder of the Inspector. If you believe that he was the person who shot Ananta, the inference must be very strong indeed, apart from any identification of witnesses, that he was the person who was concerned in the murder of Nripendra. I have also pointed out to you that there would not be much difficulty in the witnesses identifying him, having seen him a short time after, while the impression was fresh on their memory. Then again he was seen by them in the Police Court a short time after. So if they are telling the truth, there is every reason why they should be able to identify this man.

Now, against this cogent body of evidence what are the suggestions made by the defence? First of all, it is said that rewards have been given by the Commissianor of Police to four police-constables and five other men, and it is said that they were rewarded for the capture of the murderer of Nripendra, and it will also be said that as it is not the case for the Crown that the bullets that were found in the body of Nripendra came from this revolver, therefore the case for the Crown is false. Now, in the first place the enquiry in the Police Court was concluded by January 23rd. Their evidence had already been given. Their rewards were given three days after tne order of commitment was made on the 23rd. The case, then, for the Crown, with regard to the murder of Nripendra was exactly the same as it is now. Witnesses have been asked "Were you rewarded for having captured the alleged murderer?" They said, "yes." By that it cannot be suggested that at that time the case was different. The case was exactly the

same as it is now. The commitment had already taken place. The charge under s. 304 had already been laid.

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Then, it was said that these rewards had been given as a bribe by way of inducing these witnesses to tell a story which otherwise they would not have told, or in any case to induce them to depose in favour of the prosecution Now, gentlemen of the jury, I venture to submit that this is an unworthy suggestion on the part of the defence. You have in this case rewards given and sanctioned by the highest officials and I say that it is an unworthy suggestion that any one of them was actuated by any desire whatsoever not to see or maintain an absolute purity in the administration of justice. You have it from the evidence of Sri Dousad that it was on the evening of the 25th that he first heard that he would have to attend the parade on the morning of the 26th, that is to say, two days after the commitment. Therefore, the witness first came to know of these rewards two days after the commitment. If the Government or the executive authorities thought this was a fit case to recommend and to reward the valour displayed by some policemen, and others who were not policemen, that was the time when they could offer their reward. But when there were offers of rewards and they had kept them back, the suggestion would at once have been made that the rewards would be given after they saw how the evidence was given, or in other words, the rewards might operate by inducement in the way of their giving evidence here. My friend makes a point, and charges the persons concerned in the matter of those rewards that its effect is to induce the witnesses to depose in a particular way.

With regard to Ram Bhujan, it was suggested and stated more particularly, "You got your reward on the 26th and you gave your evidence on the 30th?" The suggestion was strongly put

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forward that it was for the purpose of getting witnesses to give their evidence in this way. Now, gentlemen, just look at their evidence. There are at least four persons who have received these rewards who are policemen. If there was the slightest desire to get their evidence, it could have been done far more effectively and secretly in the office of the police than by giving them these rewards in the open and public manner in which they were given. I say that this is a suggestion which has got no substance in it whatsoever. I submit to you that there is no sinister significance that can be attached to the Crown by reason of these rewards. I put it to you that if they wanted to recognise and reward the valour of these people who are concerned in it, from their point of view, the only time when they could do it would be between the commitment order and before the case came on for trial at the Sessions. If they kept it back for any length of time, the very object is lost. I venture to submit that the only time that the rewards could have been given if they wanted to give them at all would be between the time of the commitment and the time that the evidence would be given here. Any other time would have been open to graver objection. Mr. Walker says this. He was asked "Each person was rewarded for having caught the murderer of the Inspector?" His answer was "I don't think so."

This is the kind of suggestion that has been made. Then a suggestion is made that a certain number of witnesses who have given their evidence in this case had previous convictions, and were, therefore, amenable to the influence of the police. Now the only witnesses against whom that can be suggested are Bhola Kalwar, Ganga Teli and Jogendra Bhattacharjee. The suggestions in this case have been made somewhat broadcast. Each witness who came up was asked: "Have you not had a previous conviction." For instance Debi Borai was asked "Have

you not been frequently convicted for being drunk and disorderly?" "No...absolutely false." Now I ask you to forget these suggestions. Standing Counsel.

Mr. Justice Stephen: Was a previous conviction proved against Bhola Kalwar?

Standing Counsel: Yes. He admitted that he was in illicit possession of cocaine, and he was fined, Rs. 50. The suggestion was also made with regard to Dukhiram and Manicklal Dutt and my friend wanted to see the order of acquittal. The records are here.

Now with regard to Dhukiram and Manicklal Dutt, the suggestion was that they were convicted. They were not. They were tried by this Court and they were acquitted. Their answer is conclusive. It would be a dangerous doctrine to say that a man who is acquitted by this Court is a convict. Therefore, there remains only three I venture to submit and it will be for your Lordship to say whether one is entitled to ask a man as to whether he is a convict or not unless he can give reasonable grounds for the belief, that is, by seeing the record. With regard to these three men, the first of them is Bhola Kalwar. What was his offence? He was found in possession of some cocaine in 1909 for which the only punishment he received was a fine. First of all, he understood by conviction that he was sent to jail and he said no, but when it was properly put to him he admitted it.

Is that the same kind of thing as, for instance, a theft, or breach of trust. It is an offence against the revenue law and it is punishable But it does not imply the same moral turpitude. Some of you know whether at the crossing of the frontier cigars do not pass undetected. This is an offence against the customs law. Supposing it is found out, is the offence of the same kind as that of a man who has committed theft. To start with, the gravity of the charge is very little. What you have got to consider

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is whether he is, or is not, a likely witness. His house is near the *thakurbari*. If you look at the map which is probably very familiar to you by now, you will see that it is quite close to that place, marked F., the place of occurrence. If Bhola Kalwar comes and gives evidence, it is the evidence of a person who is likely to have been present there. There is nothing, therefore, in the suggestion of any machinations on the part of the police. He is there, and, if he is able to give evidence, it is the duty of the prosecution to bring that evidence forward before you.

The next witness against whom a conviction has been proved is Ganga Teli That Ganga Teli was there is amply shown from the fact that he received some injuries which Dr. Moitra has told us were then fresh. Therefore, he is an important witness. It may be, with regard to people against whom the conviction is proved, that it would be a legitimate argument to say that their credibility has been affected, and their evidence must be received with caution, but to say that because the police produced Ganga it is in furtherance of their machinations is, I submit, an unwarrantable argument. He was seen that very evening. Mr. Walker saw him that very evening. He was seen at the hospital and his injuries were fresh. If the rest of the evidence shows that he was really at the side of Ananta he was bound to be called.

Then the last man against whom any conviction is proved is Jogendra Bhattacharjee. He lives in Ahiritola. He was seen at the place of arrest, and it has been said that he is one of these who received a reward. If he was at the place of arrest, and if he had gone following this man, he was a necessary witness in the ordinary course. I am not saying with regard to that man that unless you find him corroborated strongly his evidence would carry much weight. That is quite another matter. You

have seen him and heard him, and you have to consider the whole evidence remembering that he has been convicted of an offence. Beyond these three no conviction has been proved before you. Standing Counsel.

Then it has been said that Radha Shyam and Debi Gowala were not at the place where the Inspector was shot, or at least that one of them was not there. As I read the cross-examination the suggestion is made in this way. Radha Shyam Singh says in Mr. Norton's cross-examination that he saw this boy fire at the Inspector, and one of the bullets hit the Inspector. There is no evidence to show, and the probabilities are all in favour of the view, that the three bullets found in the body of the Inspector were not from the revolver of this boy. This witness has told you that he saw this boy hit the Inspector with a bullet from his revolver, and, therefore, the suggestion is that either he was not there or that his evidence is wholly unworthy of credit.

Now, gentlemen, I ask you to pause for a moment. Picture to yourself a man getting down from a tramcar, and two persons standing close behind or following him closely. Shots were fired in quick succession; revolvers were seen in both their hands; who is there who can say which particular shot took effect. Witnesses are very often apt to make a mistake between what they actually see, and what they infer from that they have seen. I ask you, is it possible for anyone to say if shots are fired in quick succession by two men almost simultaneously, and the man falls down,—is it posssible for a man to say whose shot took effect? If one man fires, and the other man falls down, of course, the inference is that the shot took effect. But if there be two men standing and aiming at the same man, and that man falls down, and there were two pistols, one in the hand of each, how is it possible for anyone to say which bullet was fired from which revolver? He said he saw it, but it is pure inference. I ask

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you as men of experience to say that it is not a fair argument to say that he was not present at all, or that he was not telling the whole truth. (Reads evidence.) I submit that he must have made a mistake between what he saw and what he inferred.

I don't care whether the witnesses have made some mistake here and there in minor details. They are illiterate witnesses and they are bound to make these mistakes. The point is, does that bring home to your mind any doubt that this man was not there? If the man was there, and if he had seen the Inspector shot, and if he said he was twenty or thirty feet off it might be fifty or sixty or seventy. No rigid adherence can be given to one's ideas of time. The next suggestion is this. It is said in the evidence of Radha Shyam Sing that he first heard the noise of crackers and then turned round and saw these two boys had alighted, that is, this accused and the other man. His evidence is that he saw, first of all, the Inspector alight, he heard the report of a shot, and saw the two boys getting down. The Babu fell, then there were two or three shots fired into his prostrate body. It is said that Debi Gowala's version is different from this, *viz.*, that he saw the Babu alight, saw these two men get down, then heard one shot, then two or three shots, the Babu fell down, and these men ran away. Gentlemen, you have been hearing this evidence with careful attention for some days and I ask you, Do you yourselves all recollect the sequence of events as it has been deposed to? I venture to think that if the nine of you were to put down your recollection of what you heard they would not all agree. You have here in this Court conditions which enable you to recollect. You have been called upon to discharge onerous public duties. You have been called upon to fellow the evidence very closely. Yet I venture to say that you are not able to give the exact sequence of the evidence that the witnesses have spoken to. With those who

saw the occurrence the impression is probably stronger. Try to remember that the murder was taking place in front of their eyes, and that the shots that were fired startled them and made them nervous, and frightened them all to a certain extent. Do you expect that they will remember the order of events or the minutest detail? I say that substantially what they would remember would be that the Inspector got down they saw two persons with revolvers in their hands, saw them fire shots and run away. To expect that they will remember more minute details is, I submit, to expect too much It is not a proper argument to say, therefore, that they were not there at all or that they were no truthful witnesses. What after all is the difference between the story told by the police? In the sequence of events that Radha Shyam Singh gives, he transposes the third item of the sequence into the second place, and Debi puts the fifth item in the fourth place. It is very difficult for them to recollect these minute details, particularly at a time when, under the circumstances, their nervousness must have been great. If there has been a close accord in the evidence of different witnesses as regard the sequence of events, it would seem to be a cogent proof of concoction and tutoring. But I shall show that the difference in the sequence of events give by Radha Shyam Singh and Debi Gowala is to be found in the difference in the Police Court in their examination-in chief.

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Counsel was dealing at length with the evidence when the Court rose for the day.

ELEVENTH DAY

TUESDAY, 10TH MARCH, 1914

Standing Counsel.

The Standing Counsel continued his address on behalf of the prosecution. He said: Gentlemen of the Jury, I was about to pass on to the evidence of Ganga Teli when we rose the last evening. Ganga Teli's evidence that he was there is strongly corroborated by the fact that he was hurt. The doctor says that his wound was recent. He would have great advantage in seeing the face of the man who ran away just in front of him and fired at him from close quarters. That is the importance of Ganga Teli's evidence. It has been pointed out no doubt that Ganga Teli had been convicted of stealing a goat from Bhola, father of Ananta. Ganga Teli is a material witness. With regard to Ganga Teli's evidence it is not very clear as to the exact time when he left the place where he was hurt and went to Musjid Bari Street. He said he was the last to arrive. Then he said he saw the father take away the boy and in the meantime he went to Musjid Bari Street. So what I think is the net result of his evidence is that in being hurt he would naturally wait a little time and then go to Musjid Bari Street arriving there last. Then he must have come back and met the party taking away the body of Ananta on its way. But as I say the real importance of his evidence is on the question of identification. A point made with regard to him is that he says that he saw some pice on him. It is difficult for a man of that description always to bear clearly in mind what he sees or what the inferences are. He must have seen it. If he had gone there last there must have been a crowd there and it may be that he saw

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the accused being brought away in custody and from a distance he might have thought that those bullets looked like pice However, it is clear that Ganga Teli himself leaves it perfectly vague as to the time when he got there. In one part of his evidence he says he got there almost at once and in another part of his evidence he says he went there last. If you look at the cross-examination or re-examination of the witness you will find that he does not give a consistent story as to the time he left that place. He was asked by my friend and his reply was that he said so by guess. The net result of his evidence is that he waited there for a little time and then he went to Musjid Bari Street and came back. When he came back the boy was being removed.

I would like to say one or two words more with regard to Abdul Gaffur which I had forgotten yesterday. I explained to you the alleged discrepancies in his evidence between what he stated in the Police Court as to his being on his round at Upper Chitpore Road. I pointed out to you that he does not say in that evidence as to where he was when he first heard the shouts. There was a clear omission with regard to his coming through Beniatola Street in the third or fourth line of his evidence because he says, "I first noticed him when I entered into Sonar Gouranga Temple Lane from Chitpore Road." That cannot be, because you cannot enter into Sonar Gouranga Temple Lane from Chitpore Road. It was evident that sufficient importance was not given to that and he was evidently not asked about it. If this is so, it explains the first part of his evidence. If he said, "I had gone through Beniatola Lane" the whole of his evidence would agree. The only other point in his evidence with regard to which he was cross-examined was when he says, "I know Radha Shyam Singh. He was also chasing the accused." What my friend is

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really playing upon is that Radha Shyam also came and seized the accused. Is it possible to place much reliance on the omission of a word like that when you are dealing with the whole of the evidence. His evidence here is that Radha Shyam had come up and seized the accused. I ask you to consider whether upon minute differences of this nature any suggestion can be made with regard to the truthfulness of the witness.

Now, gentlemen, there has been a certain amount of cross-examination as to whether Mono Dutt and Sri Dousad had seen Debi Gowala there. Mono Dutt says he does not remember seeing Debi Gowala. Sri Dousad says he did see him. The fact that Mono Dutt does not remember seeing him, I submit is not of much consequence Negative evidence as to whether you had seen a thing is not of the same value as positive evidence and upon that I will read to you what I consider is the true way of looking at evidence of that character (reads from page 434, Willis on Circumstantial Evidence). Therefore, as I said, the fact that Mono Dutt did not see Debi Gowala is not of much consequence. A large number of witnesses have mentioned his name and Debi Gowala himself says that he was there and his evidence is that he came last. There was at the time a large crowd and under those circumstances the omission on the part of Mono Dutt to see Debi Gowala is of very little consequence. We had a certain amount of cross-examination as to how many shots were actually fired at the crossing.

The general trend of the evidence is, and in fact most of the witnesses say, there were four shots. Debi Gowala says, first of all, that there was one and then that there were either two or three. As I said to you yesterday it was very difficult under these circumstances when shots were being fired in rapid succession to count the exact number of shots. That same observation will apply to this

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part of the case, *viz.*, that when a murder is being committed and shots being fired in rapid succession it is exceedingly difficult to be precise as to the number of shots. One shot out of the four must have missed the Inspector and that bullet probably has not been found. In that revolver that has been produced there are two discharged cartridges. I submit that it has been shown that one of the shots was fired at F into Ananta Teli and the other must have missed.

Mr. Justice Stephen ; Why do you say that one must have missed ?

Standing Counsel : Because there is no evidence that the other bullet from this revolver went into the body of the Inspector.

Mr. Justice Stephen : Is there any evidence that the bullet that went into his head is not 450 ? A portion has been found weighing 102 grains. Is there any evidence to show that, that is not a part of the 450 ?

Standing Counsel : There is no evidence in regard to that. However, I will leave it there. I cannot make any positive case. It may be accounted for in many ways.

Now, gentlemen, that I think finishes all the salient features of the case. I have not gone into details with regard to a discussion of the evidence. I have given you generally a summary of the evidence that has been placed before you.

One word now with regard to the motive or intention of the accused. His Lordship will direct you about the law, but I ought to point out to you that the motive is an entirely different thing from the intention in the eye of the law. A person running away and being obstructed, his motive may be to effect an escape. He may say to himself that the person he has shot will not die ; he may say that the person will recover ; he may even say that

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he may not hit him; but if in fact he did hit that man then the law presumes that his intention was to cause such injuries to that man which in the ordinary course of nature follows from his act: in other words, the law presumes the intention. You will also remember that if a man fires a pistol or revolver in a crowded street or fires at a particular person and there is a probability of that person being hit, then he will be liable for the consequences of that act. If a person, for instance, fires a revolver in a street where there are persons near about so that there is a probability of hitting anyone and if anyone is hit, then that comes under the definition of murder. Here the evidence is that he was standing quite close to the boy. His motive might have been to escape, but his intention was to hit, although he might not have wished to produce fatal consequences. But it makes no difference in the eye of the law. However, that is a point of law and his Lordship will direct you upon that and you are bound to accept his Lordship's direction.

Now, gentlemen, I have placed the evidence before you to the best of my ability. I have not gone into the details because I think it serves no useful purpose. You, have heard the case from day to day and you have seen the witnesses and you are eminently fitted to pronounce a verdict as to the evidence placed before you. It is a matter of great satisfaction to me that the accused is defended by Mr. Norton. It makes me feel that anything that can be said for him will be said. We all know the skill and advocacy of Mr. Norton and his devotion to duty and we all know how powerful an advocate he is. It relieves me of a great deal of anxiety lest I should have put in matters before you which I ought not to have put or I had omitted to put in matters in his favour which I ought to have put before you. I trust you will consider your verdict very carefully. A very solemn duty has been

committed to your care and I have no doubt that you will perform that duty to the satisfaction of your own conscience regardless of all other considerations. I have no doubt that you will not be influenced by anything whatever that you may have heard outside the precincts of this court. I have no doubt considering the great care with which you have followed the evidence and the patience you have displayed throughout this long trial that your verdict will be the result of careful consideration of all the facts and circumstances of the case and that in it will be fonnd the voice of reason. If after a careful consideration of all the facts and circumstances of the case you come to the conclusion that the accused is not guilty, in God's name acquit him. On the other hand, if after a careful consideration of all the facts and circumstances there is a cloud of doubt that arises in your mind, acquit him by all means. If upon a careful consideration of all the facts and your deliberation over the evidence which is placed before you and the respective submissions that are made by me and that will be made by Mr. Norton as also by his Lordship in his charge, you come to the conclusion that he is guilty, it will equally be your duty under these circumstances to find him guilty. Upon the punishment of the guilty rests the safety of society and the maintenance of law and order. Standing Counsel.

The Standing Counsel then explained the law with regard to reasonable doubt, and added :—

There is one word that I should like to add with regard to what I opened yesterday, *viz.*, that this murder necessarily includes culpable homicide, so that if you come to the conclusion that he is guilty of murder, then he is necessarily guilty of the lesser offence of culpable homicide.

I have tried to place the evidence before you to the best of my ability and it will now be your duty

after you have heard Mr. Norton and his Lordship to come to your own conclusion.

SPEECH FOR DEFENCE

Mr. Norton. Mr. Norton then addressed the jury as follows :—

May it please your Lordship, Gentlemen of the Jury,—In rising to open the case for the defence, I frankly confess that I feel myself oppressed alike with the gravity of the case as with the difficulty it esents : with the gravity of the case because of the solemn issue of life or death which has been committed to your hands, with the difficulty because not merely of the extraordinary state in which the evidence at the close of 11 days now presents itself, but also because—and I regret to say it—of my fear that outside the circumstances of the case questions of bias and prejudice which have been carefully ignored by my learned friend may have supervened in the course of the trial to deflect your minds from the only point on which it should be directed, namely, the question of the truth or otherwise of the story. Human nature, whether in the jury Box or outside, is what it is, I feel it impossible for any man not to run a certain course of danger between whom and his eventual release—as I trust in this case that release will come—there lies such an action in the course taken, I will not say with the intention to prejudice but taken with the result that it may prejudice the Court and the Jury. There has been a murder, a brutal, gross and unpardonable murder, at any rate with regard to the Inspector. Whether there has been a second murder it is not for me to say. Possibly under the circumstances of this case, when we come to look at the evidence it may be your opinion that whoever it was who shot the boy, it has been reduced from murder to culpable homicide or to a negligent act. So far as the first shot is concerned resulting in the death of the Inspector, no one seeks to deny that there

has been a murder committed of a brutal, gross and unpardonable character, but that is no reason why your judgment should be diverted from a consideration of the facts upon which alone the question of my client's innocence on guilt may rest or be deflected from that sympathy with those who in the execution of their duty to the country have lost their lives. No one has more regard for that sympathy than I have. Our sympathies are for those servants of the Government, who for many years past have walked about with their lives in their hands in the streets of Calcutta in the exercise of their public duties and whose deaths have not been attended with that glamour that attended the death of Nripendra Nath Ghosh. It is not so very long ago that Ashutosh Biswas was practically shot almost by my side; still later there was the incident of the policeman, Sham-Sul-Alam, who was shot in the public corridor of this High Court. There is also the unavenged death of the policeman, Banerjee, who also in the execution of his public duties, like a man gave up his life in the country's cause. These are fine instances and worthy of your admiration, your sympathy and your commendation. But whilst in each case the judgment of every right thinking man (and I venture to say that that represents a large majority of the King's subjects in this country) must go out in sympathy with and admiration for those public-spirited gentlemen, I mention these facts to show that while you are enitled to let your sympathy flow to the fullest extent you must be careful not to allow any question of sympathy or revenge or a desire to put the laws of this country into force, to let you swerve a hair's breath from the duty which is before you. Mr. Norton

I will put it before you in the hearing of his Lordship that the only issue that you have to try is this, whether the evidence in this case is sufficient to justify the guilt of my client. Gentlemen, I submit with

Mr. Norton. respect that it is an imperfect representation of the law to say to any jurymen that the question they have to decide is whether the accused is guilty or not. It is not the broad question as to whether this man is guilty, but the narrower and simpler question whether this evidence of his guilt can be accepted, and if, after a review of the circumstances, you agree that the evidence is imperfect and falls short of proof, and it does not carry you to the extent of coming to the conclusion that the evidence is true, then you are bound in justice by the word of your solemn oath to return a verdict of not guilty. The real crux of this case is to be found, in the first instance, in the evidence at the capture. If you believe the evidence of the capture to be true, if you believe that this man was caught redhanded with the pistol in his hand, that will go a very long way towards justifying your coming to the ultimate conclusion that he was associated with the murder of Ananta. But will not be sufficient to come to the conclusion that the evidence with regard to the capture at Musjidbari is true unless and until you connect it with the murder in Temple Lane. By itself, there is nothing in being seen running about with a pistol. It would bear no importance. Its importance would come in for the first time if in believing in the first instance that he was caught at Musjidbari with the pistol in his hand, you believe with regard to the second fact that he was the man who fired the pistol at Ananta Teli's head.

Therefore, the act of the murder, if murder it be (and I shall come to that directly) in Temple Lane is intimately associated with the finding or alleged finding of this revolver in my client's hand. I put the case to you in this way, that even supposing (and I make no admission in this respect as I wish to arm myself with regard to that) you come to the conclusion that this pistol was in fact found in my client's hand in Musjidbari Street, you will have to

acquit him unless you find the rest of the story with regard to the Temple Lane murder to be true. Having shown, therefore, the close connection that exists between the Musjidbari Street incident of the capture; and the shooting of the boy in Temple Lane, I go backward. In discussing the reliability of the evidence with regard to the transaction in Temple Lane, you are, whether you would like it or not, driven to enquire into the antecedent circumstances of how that boy got into Temple Lane, which brings us to the story of the pursuit, and backward still to the question of the murder at the crossing. These facts are all so inter-laced, the connection between them is so close, that it will be found impossible to reject any portion of the story and to hold that the remainder is true. Mr. Norton.

Now, gentleman, let us start for this purpose with the murder at the crossing. In the first instance I care little what my friend says now is his case. Counsel for the Crown sometimes shift their case according to the exigencies of the facts which come out in the course of cross-examination and that has been done here. The case originally made, and there is no question about it, as I will show you was that my client was one of the murderers of the Inspector and that was the shot amongst others that struck the deceased Inspector. You must remember that on the 19th, nobody knew of the difference between the two bores of the pistols. Let us start with that admitted fact. There is nothing said on the 19th and there is no evidence to show that any member of the police force on the evening of the 19th had reason to believe that there were two different pistols with different calibres or bores, and there is no evidence that any policeman knew that the shot which killed the boy was a ·450. There is no evidence that any policeman knew, high or low, that the shot which killed the Inspector was a ·360.

Mr. Norton. The assumption seems to have been made, somewhat carelessly, that a similar bore inflicted all the wounds. Their contrary was first proved not until the examination of Major Foster and Dr. Moitra. It was then that the superior officers of the police force noticed that there was a difference between the calibres or the bores of the two revolvers. When Major Foster had extracted the three bullets from the body of the Inspector, it was clear that their shape, formation and size was of the ·360 class and as soon as the bullet was extracted from Ananta it was quite clear that the bullet, whether it was ·450 or something else, at any rate was not ·360. That information did not come into the possession of the police until late on the 20th, which date was the date of the post mortem of Major Foster; or possibly it was on the 21st. There is no evidence that the conductor was told before he went into the witness-box of the difference between the calibre of the two revolvers. That, gentleman, accounts for the fact that the witnesses to whom I am now going to allude have pledged themselves on oath to the case, which my friend repudiates that the Inspector had been shot with, at least one bullet coming from my client's pistol. There is no getting away from that.

Mr. Justice stephen : Is it quite correct to say that he repudiates it ?

Mr. Norton : Yes.

Mr. Justice Stephen : He says that he does not press the case that any one of the bullets came from the accused. If I may now interrupt for one moment, I presume you rely on the appearance of these three bullets ?

Mr. Norton: I do more than that. I rely upon their weight.

Mr. Justice Stephen: For some reason it was not examined or cross-examined too. Have you noticed it ?

Mr. Norton : No. Mr. Norton.

Mr. Justice Stephen : Let me suggest it to you. You will remember that the ·360 are flat-faced.

Mr. Norton: The ·440 are flat-faced.

Mr. Justice Stephen : What about the ·360 ?

Mr. Norton : There is no evidence.

Mr. Justice Stephen: There is no evidence about those shots. I wish there had been. I have looked at them myself and have drawn certain conclusions.

Mr. Norton : Let us take what Mr. Mitter said yesterday. He said "It is not our case that any bullet from the revolver found on the person of the accused struck the Inspector" and I will tell you why he said so. In his opening Mr. Mitter made this statement "the bullets extracted from Nripendra's body are of ·360 bore." That is his present case and I am going to hold him to that case and I ask you to hold him too. That was not his case in the Police Court. I will pray of you to hold him to that statement, otherwise there is no value in the statement of a prosecuting Counsel or any Counsel. The present case is practically a denial that my client fired a shot into the Inspector's body at the crossing. Let me call your attention to some witnesses on this point. My first point is this, that there is abundant evidence—and I am assuming now that it is truthful—that only three shots were fired at the crossing. Every shot fired has found its bullet; each one has been found inside the Inspector. If three shots were fired, and three shots were found inside the Inspector's body, and taking it that each one of these is a ·360 bullet, it follows that my client never shot the Inspector. What follows from that? Each one of these witnesses who has sworn to you that he saw my client discharge a bullet into the Inspector's body and that the bullet went home, stands self-convicted as a liar. We are dealing with human testimony and we are to judge them humanly. I am

Mr. Norton. entitled by every law, divine, legal or moral to denounce them as liars. I don't ask you to come to the conclusion for one moment that Nripendro Ghosh was not murdered. The only reason why I call your attention to the circumstances of the Sova Bazar crossing shots is for the purpose of attacking, and I trust, of absolutely demolishing, the veracity of those witnesses. There is this one point I wish to refer to and that is the identification of my client. If I shake them there, I shake the very foundation upon which this case rests. If I show you in any band of chain that the links are forged, the whole chain is gone. On a question of reasoning if I show you that there are some serious flaws upon the question of identification, I am entitled to ask you to pause before you send this man's soul elsewhere outside the jurisdiction of this court.

Mr. Norton then dealt with the several witnesses who spoke to the three shots, and then discussed the circumstances under which identification was made possible. He was still discussing the evidence when the court rose for lunch.

Continuing, his address after the lunch recess, Mr. Norton said :—

I was dealing, gentlemen, with the evidence in connection with this pursuit in 2, Musjid Bari Street. I shall have to call to your notice what Mono Dutt said when he was asked as to what information he received that night. He said that he did not tell a single word that night about the boy being shot in Sonar Gouranga Temple Lane. His exact evidence is this, "I never heard the story that the accused was running through various lanes and had shot a boy that night." Now I put it to you, is it possible or probable that if that occurrence, as it has now been related to us, had actually taken place on the evening of January 19th and that shortly before the accused had been enfolded in the hands of Mono Dutt in Musjid Bari Street he had shot a

boy in the presence of some police officers who, if they were speaking the truth, saw him shot by the accused, and saw the accused captured, is it probable that Mono Dutt would not have heard that story then and there? I submit that if it was true he must have heard it at that time. He said that he did not hear. What is the meaning of it? The meaning is that at that time that story was not ready. The reason that Mono Dutt did not tell that story is that the police were not at that time ready to tell that story. That story has since then been concocted. I will take you to the evidence of Mr. Walker, the 11th witness for the prosecution. In cross-examination with regard to the circumstances brought to his notice at the thana and during the enquiry he made this significant admission. "I neaver heard that night from anyone how that pistol had passed into the hands of the police." I submit that this is fatal to the present story. It is true that they hear it later on, but Mr. Walker was the first European Officer who came into contact with the police that night. He was the first European officer who saw the Inspector, and he was the first who interrogated, and he was the first who interrogated some of the police officers that night, and so far as he was concerned that story about the capture and the pistol being snatched away from the hands of the accused by Sreo Dousad had not reached his ears. Now couple the two together. Mono Dutt had not been told about the boy being shot at the devious winding lanes, and Mr. walker had not been told how the pistol had passed into the hands of the police. I ask you to couple these two facts together, annd I ask you to say that the failure of these two men to hear these two extremely important component parts of this story proves beyond all reascnable doubt that the story as told to us hear had not seen its birth when Mr. Walker was in contact with the case. Mr. Norton.

Mr. Norton.

Mr. Justice Stephen: Where is this passage in Mr. Walker's evidence ? Is it in his cross-examination?

Mr. Norton : Yes, my lord. He said so to me. I got it in cross-examination. I asked him, "At that time you did not hear how the pistol came into the hands of the police ?—No." It is towards the close of the cross-examination.

Mr. Justice Stephen: He said "I may have received infromation that night, but I cannot recollect.

Mr. Norton : "Have you seen the pistol before or after you went out ? First when I went to the thana."

" At that time you had not heard how the pistol came into the hands of the police?—No."

Now, except the police witnesses with whom I need not deal at any length now, there is no other witness who spoke to the capture at the Musjid Bari-end.

Mr. E. P. Ghosh : This is how it is recorded in our notes. " Then I may take it that up to that time, beyond the fact that Mono Dutt captured this man, you had not heard any details as to how the pistol passed into the hands of the police ?—No."

Mr. Norton : I do not think that there is any particularly striking difference between my version and what has been recorded by the Crown. Up to that time at any rate, he had not heard how the pistol had passed into the hands of the police, that is to say, that it had been snatched by Sree Dousad from the hands of the accused. Therefore, excepting the bare capture by Monodutt that story had not at that time reached Mr. Walker's ears.

The only remaining witnesses who speak to this portion of the matter are Radha Sham Singh, Abdul Gaffur, Debi Goala and Rambhojan Singh.

I am now dealing with Rambhojan Singh. There is rather a curious light thrown upon the case because it shows to what depths the people in

Mr. Norton.

charge of this case are prepared to stoop in order to draw a cord round my client's neck. It is now asserted that he was a witness from the first. This is the case that has been put forward now. First of all let us ask ourselves when he put that case forward. The evidence stands thus. I do not wish to deny that on the evening of the 19th he may have said to Mr. Walker that he assisted in the capture of the boy. I do not wish to deny that, because it is probable that every policeman who was about that locality would make the same sort of claim. Therefore, that he should have said to Mr. Walker on the evening of the 19th that he had something to do with the capture of the boy proves nothing. The next curious dilemma is this. Why was he not examined on the 21st and 22nd in the Police Court? What is the excuse? The excuse is given by Radha Sham Singh who says that something was said to some one of the name of Chota Babu who has not been called. He is the Inspector or Sub-Inspector who took down the statements of the police on paper.

He has not produced the list of witnesses who were present at the time of the capture and Rambhojan's name was accidentally omitted. I submit to you first of all that this is not evidence. We should have first of all this list, the paper upon which his name was written, we should have the Chota Babu, and we should have the details of the conversation between the Chota Babu and the men. All this has been kept carefully concealed and we have had no chance to cross-examine as to what the value of the statement is. Assuming that the Chota Babu made a list into which he did not put the name of Rambhojan on the 19th, how do you account for the fact that you allowed the 21st and 22nd to pass when this case was before the Police Magistrate, and when he was not examined there as a witness? As to that there is no explanation, and

Mr. Norton. so time passes on. According to Radha Sham Singh, this mistake was discovered on the morning of the 20th. If this is true, that on the morning of the 20th it was discovered that his name was omitted by mistake from the list of the witnesses present at the capture, I want to know why he was not put before the Police Court. His name is mentioned in the Police Commissioner's Office on the 21st. Why was he not put on the 21st and 22nd before the Magistrate? There is no answer to that. The fact remains that he was not. Was it that he was not put up, that his story was not then complete? Was it that they were waiting to sow the seeds of some more falsity in this man's mind to bring him up to the standard of the Calcutta police? So the time passes on till the evening of the 25th, when he is told that he had got to attend a parade behind the Queen's statue on the maidan, to receive a reward for doing nothing. On the morning of the 26th he attended the parade and there he received Rs. 750 from the grateful Government and he is told by the Commissioner that he has received it,—for what? For having assisted in the capture of the murderer of Nripendra.

Mr. Justice Stephen: Whose evidence is it, that you are now putting to the Jury.

Mr. Norton: Here is a statement made by each witness.

Mr. Justice Stephen: It is not proved by any witness except one. You must not put it as being admitted. Many witnesses have denied it.

Mr. Norton: I do not put it as being admitted. I put it as being proved, and I say that I am entitled to put it.

Mr. Justice Stephen: It has been said by one witness and denied by many.

Mr. Norton: Then it has been proved by one, and if it has been denied by many, the rest are all liars.

I am in charge of you, gentleman, at present and I am asking you to take from me what I am putting to you. You are the judges of the facts and I maintain that if in law, one witness admits a statement, I am entitled to take it as a fact, and I ask you to say that all the other witnesses who do not admit it are all liars. I cordially ask you to accept that. Mr. Norton.

Now, this is what Abdul Gaffur according to my notes says, " The Commissioner gave me a reward. I was rewarded for catching the accused. I remember the Commissioner saying that I would render service to the Police in future." Now let us see what Radha Sham Singh says. My note is this. I was cross-examining him about his reward by the Commissioner of Police. "I was at the parade . . . . Were you not told by the Commissioner of Police that, that remuneration was given in public and it was given for arresting the murderer of the Inspector ?—The Commissioner told me the Inspector was dead. I had arrested the accused, so I would get a reward."

Mr. Justice Stephen: It may be so, but it does not very much matter.

Mr. Norton : I think it establishes my point.

Mr. Justice Stephen : It is for the jury, of course.

Mr. Norton : I think I have established my point that it was said that the reward was given for the capture of the murderer. As to the effect of this on the whole of this case, I will deal with a little later on. I am at present showing certain facts which I submit are extremely relevant to this case. Now that being so, I have done for the present with the evidence at the Musjidbari end.

Now I must take you back to one or two other occurrences of rather important character. I was on the question of Rambhojan Singh. He attended the parade. We know that it took place at an early

Mr. Norton. hour of the morning of the 26th and that he received a reward of Rs. 750 there. At that time he had not given his statement to the Police Court and he did not give it until 4 days later on, on the 30th. There is no explanation given for this delay. An attempt has been made, but it has failed. This attempt was made by Mr. Lowman to say that an application had been made to the Police Magistrate in connection with Rambhojan, but he could not take the case any further because he was not present and he could not say what was doue. Rai Sahib Tarak Nath Sadhn, who was there, could have proved it, but he was not called. So upon the proved facts of this case, this man was rewarded on the 26th and he gave his evidence on the 30th.

Mr. Mitter has done great injustice to me by saying that I hinted or insinuated, or wished to hint or insinuate, that these rewards were given by the Government or the Commissioner of Police as bribes. I never said so and I never intended to say so, and I did not even think so. If I even thought so I would not have hesitated for a minute to make a remark, even with regard to the Commissioner of Police, and nothing would have made me shrink from my duty if there was any evidence. I am quite willing to admit that this was done with an honest intention by the Government. I am quite willing to admit that the Comissioner of Police, being an English gentleman, would not stoop to bribe a witness. It never was my intention to suggest that in cross-examination. I cross-examined for a different purpose. It was for the purpose of showing that all these witnesses had received their rewards as having captured the murderer of the Inspector at a time when my client was lying under commitment in the Police Court and had publicly proclaimed his innocence. I say the whole of the transaction was a gross travesty of justice, I say that never within living memory has there ever been a grosser

contempt of court. Here was a man protesting [Mr. Norton]
his innocence, and he was entitled by all the laws of England to a fair, just, and impartial trial. What was the idea of calling a public parade and asking his Excellency the Governor to preside, when the object of the parade was to declare to the world, as was done that morning, that these police officers and others were being rewarded because they had captured the murderer of the Inspector. That is the very issue that you have been called upon to try to-day. I do not want to make the case uglier or more infamous than it is against the Government as it stands. I say this and I will maintain this to my dying day, that a more injudicious exhibition of official power has never been displayed before inside the four corners of this Presidency, and while this man, my client, was proclaiming his right to be tried as an innocent person. I do not say that it was done intentionally, but to attend that parade, to take this photograph, and to proclaim that this boy was a murderer, and that these men were being rewarded because they had captured him was to trespass upon one of the greatest and most essential principles of English law. This is how far I intended to carry, but it has another further consequence of an equally lamentable character because the accused was under trial. Who knows what effect it has had on the minds of some of you, and if it has had some effect on you, who knows what difficulties I shall have to contend against to remove any impression that might have been caused by such an unwarrantable practice as this. I suggest that the commonest chivalry should have made the Commissioner of Police wait till the termination of this case before he rewarded these men in public on the plea that they had captured the murderer of the Inspector. There was no need for haste. Their bravery would have waited to be rewarded afterwards. till the conclusion of this case. At any rate, my client would

Mr. Norton. not have been prejudiced in this manner. The accused would have been free from the stigma which has been thrown upon him and the suspicion of the Commissioner of Police and the Government must prevent him having a fair trial as he was in the eyes of the Government a murderer.

It has also another effect. Here you are going to pay large sums of money to witnesses of the class of those who have given evidence in this case. and to policemen who are illiterate and who owe all that they have to the generosity of the Government for the services they offer to the Crown. Do you think you will make it less difficult for these men to speak the truth? I do not wish to suggest that the Government bribed these men to tell lies, but do you think you would make it easier for them to speak the truth by paying them large sums of money? Do you not bind them to yourself by a strong bond of misplaced loyalty and gratitude? I say that you do. Look at it from whatever standpoint you like; the whole proceeding was illegitimate and unjust and improper and I was surprised to hear my learned friend Mr. Mitter justifying it from first to last. Now it has had a twofold consequence upon this unhappy boy, and I am entitled to put it to you that in the first place it has raised a mass of prejudice against him which my poor efforts may be absolutely unavailing to break down, and secondly it has stiffened up these witnesses, who with the payment in their pockets would give evidence for the Crown and try to defeat justice by denying everything in cross-examination that is put to them. These are serious embarrassments and I am bound to say that it has created a prejudice between my client and his safety, and I am entitled to comment upon it. I ask you to recollect that every police officer Ram Bhujan, Debi Gowala, Radha Shyam Singh, Abdul Gaffur and all of those who have received a reward of

Rs. 750, are to that extent labouring under a disqualification which it would be difficult to remove. Mr. Norton.

Mr. E P. Ghosh : What Radha Shyam Singh did say was this, according to my notes : "Were you not told—Sri Dousad snatched away the pistol."

Mr. Norton : I see no variation nor do I see any reason for this interruption. This is exactly what I read. My friend has not read the "yes" before the answer. We will let it rest there. Now with regard to Ram Bhujan, he stands in a different position to the other policemen who were rewarded. The others were rewarded after their statemants were taken and Ram Bhujan was rewarded before he was examined. I am not making any charge because there is no evidence in support of it, but there is the fact that he was rewarded before he gave his evidence under circumstances which I say still have not been satisfactorily explained. Two English officers, Mr. Walker and Mr. Lowman, have gone into the box, but neither of them has given a single word of explanation as to why rewards were made before evidence was given. I have read quite recently through the whole of the police evidence and you may take it from me, if I am wrong my friend will correct me, that every police witness examined in this case in his evidence before the Police Court did not mention a single word as to Ram Bhujan having been present at the capture, and yet it is a fact that Ram Bhujan was not even mentioned as being present. The explanation given is an absolutely new one. It is said that it was a mistake. Are you going to hang my client upon this mistake? Everyone is making some mistake. The Police are living in an atmosphere of mistakes. Five healthy policemen, we are told, were all making mistakes. I put it to you that the reason why Ram Bhujan's name was not mentioned is because he was not there. Immediately after it was decided to put in Ram Bhujan's name as one of those who were

Mr. Norton.. present at the capture, there was a complete departure from the silence maintained in the Police Court; every police witness who has now come forward cheerily puts it forward that Ram Bhujan was present from start to finish. I do not want to flatter you. I must take you to be men of common sense, and I put it to you as men of common sense that one would require some explanation when you come to deal with the evidence of the persons who were present at the capture. Yon want to ask yourself what is the explanation for the absence with regard to the mention of this man Ram Bhujan's name in the earlier stages of the case in the Police Court. Why did they leave his name out? Where is the necessity for it? And if there is no necessity, is there not at once imported by force of necessity circumstances suggesting serious and grave doubts which would entitle you, gentlemen, to pause before you send a human brother elsewhere. Once the silence is broken, you have a flowing stream of witnesses. But acts on his part have been spoken to by the witnesses for the first time in this Court who had never made any allusion to him in the Police Court. For instance you hear that he had on a green chudder. We are also told that he took that green chudder and with it tied up the hands of the accused, I forget whether behind his back or in front of him. This is a circumstance which, if true, no witness could have forgotten. And if it was not forgotten, how was it that no witness spoke of it in the Police Court? Why is there this enlargement of the case as soon as this man is brought on the scene, and they have been compelled to add to their statements in the Police Court. After every one has remembered the green chudder, Ram Bhujan is called; and when he was called he was not asked one single word about the green chudder.

Mr. Norton had not concluded his address when the Court rose for the day.

TWELFTH DAY

11TH MARCH, 1914.

Mr. Norton continuing his address told the Jury that when the Court rose on Tuesday evening, he was dealing with—and had not finished his argument on—the position of the cartridges in the revolver. He had already dealt with the position of the cartridges as spoken to by Mr. Lowman and as testified to by the diagram that Mr. Lowman drew. Counsel pointed out that so far as that diagram was concerned, the Jury were faced with the insuperable difficulty that if the accused fired the first exploded cartridge, he could not have fired the second exploded cartridge, because between the two there was a cartridge still loaded. There was no place where a shot could be attributed to the accused except at the Sova Bazar crossing. The evidence succinctly placed this fact beyond dispute that there were only three shots fired at the Sova Bazar crossing. Therefore, every shot told and every shot had been found in the body of the Inspector and every shot was a ·360 bullet. On Tuesday His Lordship suggested that there was no evidence that the temple bullet wound might not have been a ·450 bullet. Mr. Norton respectfully submitted that the learned Judge was wrong. There was conclusive evidence to show that it was a ·360 bullet. First, there was the evidence of Lahiri that he himself weighed those three cartridges after Major Foster had extracted them from the body of the Inspector. A ·360 bullet weighed exactly 131 grains. Of the three bullets found in the body of the Inspector, two were still whole and those two weighed 134 grains each. Therefore, those two bullets must have been fired Mr. Norton.

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Mr. Norton. out of a ·360 bore revolver. The evidence with regard to the third bullet was that it was in a fractured condition. It weighed 102¼ grains. The evidence was that the weight of a bullet in a ·450 calibre was 225 grains. If they subtracted 102¼ grains from 225 grains, that left roughly 132 grains accounted for. It was a physical impossibility that the difference between 102 grains and 225 grains could be attributed to any portion of the bullet either being lost in the grooving of revolver or in the body of the Inspector. Therefore, the 102¼ grains showed that the bullet was a ·360 bullet. That clearly showed that the accused did not fire either at the Sova Bazar crossing or in Chitpore Road.

If the accused, said Mr. Norton, did not fire at the Sova Bazar crossing or at Chitpore Road, how could the Crown account for the presence of the two exploded cartridges? One exploded cartridge could be accounted for by the shooting of the boy, but what about the other? The Jury must not console themselves with the suggestion that the accused fired in the air or at random and missed the Inspector. If the accused fired a shot which missed, then all the witnesses who said that there were three shots were lying. There must have been four shots. Why had witnesses sworn positively that there were only 3 shots? Therefore the accused did not fire a shot which missed. If the accused did not fire a shot which missed, how could the Crown explain the presence of the two exploded cartridges? There was no explanation. Therefore this was not the pistol which was used to murder the Inspector or shoot the boy, because to have done that there must have been only one exploded cartridge but there were two.

Mr. Norton submitted to the Jury that this revolver was put into his client's hands. That followed logically as night followed day. The case for the prosecution was that the accused had this revolver

in his hand at the Sova Bazar crossing, in Chitpore Road and all the devious lanes and streets through which he was alleged to have run and that he was caught red-handed with this revolver in his hand in Musjid Bari Street. That story, however, was contradicted and demolished by the evidence of the revolver itself. It had been suggested by the prosecution that this revolver jumped frightfully. The Jury had heard what the gun-expert had stated in cross-examination on this point, and all Mr. Norton would say in connection with that was that the Oxford and Cambridge sports were not in it with this revolver. Mr. Norton.

In his address Mr. Mitter had said that if the prosecution story was untrue, then there must have been a conspiracy among the witnesses to put forward a false story. He (Mr. Norton) was not here to evolve theories for the benefit of the Crown. He owed no duty to the Crown. His duty was confined to himself. His client complained that he was robbed in Musjid Bari Street of his watch, ring and his money. It was impossible under the circumstances for his client to call evidence to prove what he was doing there. The accused was in the hands of the police. His case was that he was seized and robbed by *goondas* in Musjid Bari Street and the crowd came with the police after he had been caught. In this country the accused could not go into the box and testify in his own favour. In England it was different. The law would not allow the accused to give evidence. The accused was the sole man who could speak in his own defence, but the law said "you cannot" and the Crown said "hang him!"

Referring to the chudder, Mr. Norton said that it was not improbable in the months of December and January for a Bengali student to go about the city without having a chudder over his shoulders. Those of the Indian section of the jury must be perfectly

Mr. Norton. well aware that there was a farce in their own language called "Bibaha Bibhrat" in which students were chaffed and made fun of on two grounds, one the growing custom among young Bengali students not to wear chudders and the wearing of Fort boots made in the Fort. That rather detracted from the value of Mr. Mitter's submission that no Bengali student went out in winter without a chudder. Mr. Mitter was not a Bengali student and did not wear Fort boots and had long ceased to be in touch with that particular class in life. One of the witnesses had sworn that one of the young men who ran away had on a chudder, while the other had not. Therefore that disposed of Mr. Mitter's speculation and proved that Bengali students in this country did not always wear chudders All the witnesses said that the accused had on a black chudder right down from the Sova Bazar crossing up to the time he was caught by the ends of the chudder by Ganga and Ananta. The witnesses also said that they never lost sight of him and he was supposed to have the chudder on the whole time, but he emerged into Musjid Bari Street without the chudder. Where was it, if the prosecution story was true? Mr. Norton submitted that it was a lie. The real man, who had on a chudder, escaped.

In his address Mr. Mitter, commenting on the absence of the chudder, said that if the police wished to produce a chudder, nothing would have been easier for them than to have done so. The accused, said Mr. Norton, had never parted with his coat. In the Police Court he refused to part with his coat and asked to be allowed to have it in his custody. If the police introduced a new chudder, bought for the occasion, and palmed it off on the accused as his property, they would have incurred a great risk. There were marks on a boy's clothing but by the dhobi. In all human probability this chudder had got a private mark and the police did not know

what that mark was. It might be that there was a mark on the accused's coat and that was why the police wanted to take it and the accused would not part with it. That, Mr. Norton submitted, was the reason and not any conscientious scruple on the part of the Calcutta Police or the Criminal Investigation Department. The police feared that there would be difficulty if they introduced a chudder which did not bear the mark that the accused's coat bore. On the evening of the 19th there was a walk through that portion of the town when the Inspector went down with Mr. Walker. A search was made for a chudder but none was found, and the Inspector feared, after he had been out in conjunction with a European officer, to introduce a chudder, as that would have excited the suspicion of Mr. Walker. Mr. Walker was the one witness in this case who gave his evidence with no desire to keep anything back. Mr. Norton.

It was a fair inference, said Mr. Norton, that the boy found in Musjid Bari street without a chudder was not the man who had been pursued with a chudder on. If that chudder had been thrown away at any one of these corners in the chase, would it not have been found? The police did not produce the chudder Why? Because it was not found. Why was it not found? Because there was none.

Turning to the test of identification, Counsel said that one or two of the witnesses were taken to the Alipore Jail for the purpose of identifying the other man. They were taken there by the police though they said they could not identify him. The police knew that before they took these witnesses there and yet they were taken there. Why? Obviously, for the purpose of putting pressure on them to make this case more perfect than the Crown flattered itself it was at present. When they went to jail they identified the man who was robbed. All the persons paraded for identification had on blue chud-

Mr. Norton. ders. The reason was this : that to an Indian mind a blue chudder was very much like a black one because the story on which the police was then acting was that the accused had on a yellow chudder and that the missing man had on a black one. It was in evidence that this test was conducted by a Civilian Sub-divisional Officer, Mr. Veitch. It was on record in writing showing exactly what took place at that identification. Why had not that record been produced by the prosecution? It would have settled the question how many men were produced, what they wore and what was done. That would have been proved up to the hilt by the porduction of that register. That had not been done. The prosecution had called witness after witness to disprove a fact, but they would not call Mr. Veitch or produce the record which would have put this question once and for all beyond dispute. Their failure to produce this entailed him (Mr. Norton) to say that if it was produced what he suggested to be true would be found to be true.

Mr. Norton then referred to the true and proved facts and said there were nine witnesses who spoke to the Temple Lane murder and that was the murder with which he was mainly concerned at present. Of these nine witnesses, three had been convicted before, one had contradicted himself in an absolutely hopeless and unredeemable fashion and one could not be believed. The remaining four had told for the first time in this Court, a story which if true, they would have stated in the Police Court. Taking these witnesses as a whole, their testimony as to identification was unreliable and failed. Their evidence as to what took place in regard to the shooting of the boy was absolutetly insufficient for the jury to come to the conclusion that the accused fired that shot. Conscious of the weakness of these nine witnesses the Crown relied on the corroboration of what took place in Musjid Bari Street and at Sova

Bazar crossing. The evidence of the capture must in the main depend on the evidence of Mano Dutt and Sree Dousad who stood in the relation of master and servant. If their story was true, that they caught the accused red-handed with this pistol in his hand, it was singular that they were not taken to the police thana at once that night. Why were they not taken? They were the captors of the accused. They should have been the first witnesses to have been taken to the thana by the police. Mr. Norton submitted with all the strength of which he was capable that the absence of these two men that night from the thana at the critical moment was extremely significant. Mr. Norton.

In conclusion, Mr. Norton asked the Jury that if after hearing the evidence any reasonable doubt arose in their minds. they ought to give the benefit of that doubt in justice to the accused. It was a most difficult thing to get justice; and although it was paradoxical to say it, it was also most difficult to get a Court of Justice. He asked the Jury to throw aside all barriers and impediments and approach the case bearing in mind the principle that no man should be convicted without ample testimony of his guilt. He reminded the Jury of their grave responsibilities and the difficulties in their way in doing a public duty. He asked them to remember that it was quite unsafe to accept such evidence as tendered by the Crown, He did not know whether there was a conspiracy about the pistol. It was not for him to account for the pistol. His case was that it was surreptitiously put in afterwards. If the evidence created a reasonable doubt about it, then the Jurymen were in duty bound to acquit the accused. Mr. Mitter had asked him to explain why the pistol was surreptitiously introduced. If he (Mr. Norton) succeeded in showing that it was impossible to fire the shots by that revolver, then it followed that it was surreptitiously introduced.

Mr. Norton. He did not say that the police did it. They had been told that the arms were kept secured in the Malkhana. The evidence on that point proved only the existence of certain rules, but it did not prove that the rules were not broken. Were there any rules which were not broken? In spite of those rules, he ventured to say that revolvers were taken out surreptitiously and the police had access to them.

Mr. Norton said that he had proved that this pistol was not the pistol used in murdering either the Inspector or the boy Ananta. He had proved also that the murderer of Ananta had a black chudder on and this accused was arrested without a chudder and after his arrest it was said that this man had a black chudder on.

Continuing, Mr. Norton said that the Jury would presently hear his Lordship's charge and in that charge his Lordship was privileged to make comments on the evidence. Anticipating what his Lordship might say, he reminded the Jury that whatever might be his Lordship's views about the evidence they were the sole judges of facts. If they believed that the evidence was not sufficient or doubtful to convict the accused, they would stick to that conviction even after hearing his Lordship's charge. The evidence was full of serious and grave doubts and he besought the Jury to free themselves from the prejudice which had been introduced in this trial, and to try the case on the facts which had been proved in the case. He asked them to free themselves from the question of sympathy or revenge but to consider whether this man was guilty. They were not to consider whether this man was rightly put on his trial but to consider whether the evidence in this case was true and sufficient to convict him. For a life already slaughtered another life must not be dedicated.

MR. JUSTICE STEPHEN'S SUMMING UP

Mr Justice Stephen then summed the case to the Jury. In the first place his Lordship impressed upon the Jury that it was their duty to dismiss from their minds every kind of prejudice which they might have relating to the case. They were solely the judges of evidence which was adduced before them and they should not depend on any knowledge or information which they might have derived from outside the court-room. The next thing his Lordship wanted to impress upon them was that it was his Lordship's duty to comment on the evidence that had been adduced before them in order to help them to arrive at a just conclusion. In so commenting on the evidence, he would try to present that before them from every point of view. But it was the duty of the Jury to form their opinion and judge for themselves entirely on matters of fact. If on any point his Lordship's opinion agreed with them, they would accept it. But if on any point his Lordship's opinion differed from theirs, they would form their own opinion They must consider that nine of them were there and they could exchange their views, but his Lordship had to consider the matter entirely himself and he had not the advantage of talking over the matter with anybody else.

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His Lordship then explained to the Jury the charges against the accused and said that in dealing with the facts of the case, he would try as far as he could to call to their memory the whole of the evidence in a consecutive form. But before doing that he had one or two preliminary remarks to make about the evidence in this case. They had before them thirty-eight witnesses, many of whom had been examined at considerable length. His Lordship would ask them not to trouble over minute details, but to pay special attention to the points which they considered to be important ones. The second point was this. They had heard a great deal about

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witnesses contradicting and about diverse statements made in this Court, and in the Police Court. But the evidence on which they would decide this case, was the evidence which was given in this Court and in this Court only. At the same time it was fair that the accused should have an opportunity of seeing whether the story told before the Magistrate was the same as it was here; and if there was any inconsistency between the two stories, of course, it was a serious matter.

His Lordship then said that he would deal with the three main heads, namely what happened at the Sova Bazar crossing when the Inspector was shot, what happened when Ananta was shot, and what happened at Musjid Bari Street when the accused was arrested. These were the three heads under which the really important part of the evidence fell. He would read what had been said by the various witnesses, keeping as far as possible a chronological order. Before doing that, however, he would call the attention of the Jury to the three bullets which had been extracted from the Inspector's body. Two of these bullets were whole and were ·360 bullets. The third bullet was in a fractured condition. It showed that the bullet found in the Inspector's head was of the same bore as the bullets found in the other parts of his body. The prosecution did not suggest that the bullet in the Inspector's head was fired by the accused.

His Lordship next proceeded to consider the evidence of the nine witnesses who spoke as to what happened at the cross roads. In that connection he drew the attention of the jury to what Mr. Norton had stated as to what these witnesses had stated about the number of shots fired.

After reading extracts from the statements of these witnesses, his Lordship said that that was the evidence as to the actual shooting of the inspector. That evidence summarised came to this. The man

had three wounds. Generally speaking he asked the Jury to take this evidence as a whole, and consider whether it was such that they could not believe the witnesses. There was an important point that had been taken in the argument, namely, how many shots were fired ? Of course there were three shots, because there were three bullets found, but were there four? Some witnesses said that there were three shots, others said that there were four shots. Of course it was possible for a shot to be fired without some of these witnesses hearing it. It was for the Jury to say whether it was probable that four shots were fired. The witnesses also differed as to when the Inspector fell and to some extent as to the position of the body and other details which might possibly be in the recollection of the Jury. His Lordship asked himself and had to ask the jury that supposing they did differ, what difference did it make ? There was no doubt that the Inspector was killed. There was no doubt that the Inspector was shot with a pistol held by somebody and the question the Jury would have to decide was whether the accused was there, and whether he took any part in the murder. Did the Jury consider that all these men were unworthy of credit ? They all said an important thing, namely that there were two men and that these two men ran away south towards Chitpore Road. Had the witnesses told such discrepant stories that they could not be believed on what were the two points, namely, that there were two men and that these two men ran away towards Chitpore Road to the south ? Mr. Justice Stephen.

Turning to the identification of the accused, his Lordship said that the Jury would have to use their own judgment as to how far these witnesses were to be believed when they said that they recognised the accused as being there that night. The Jury had heard the evidence about the lights and they had seen the lights marked on the plan. The Jury

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would have to remember that these witnesses had not seen the accused before. The accused was a stranger to everybody in the case. Could they trust to the identification by these witnesses merely because they said that the accused was the man whom they saw there ? Some of the witnesses did not see the accused actually until he was in custody. When they saw a man for a moment and then saw him in custody, the Jury would have to consider what the evidence of these witnesses was worth.

Then they came to the question of the shot fired in Chitpore Road. That was important partly because a shot was fired and partly because according to the case for the policemen, it led to the disappearance of the man whom the accused was said to have abetted. After reading the evidence of the witnesses who spoke to this occurrence, his Lordship said these witnesses were all agreed that a shot was fired and that the man who fired it disappeared but there was a discrepancy as to the direction in which it was fired. They had heard throughout the case several comments regarding the conduct of the police. Mr. Norton had suggested that the police did not really want to catch the man. His Lordship did not think it much mattered. But after all, supposing they saw a man committing a murder with a pistol, supposing they were pursuing the man who as far as they knew had-committed the murder, and supposing that man had turned round and fired the pistol in their direction, were they quite sure that they would not hesitate ? Would they expect the police to charge a man with a loaded pistol whom they supposed to be a desperate man flying after committing a most serious crime ? If the police did not charge him, would it not be surprising ? He left to the Jury to say whether the discrepancy as to the direction in which the shot was fired was such that they could not accept the evidence of these men. The point made by Mr.

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Norton —and one which he was entitled to make — was that that shot was sworn to as having been fired not by the accused but by the other man and it could not therefore be used to account for one of the exploded cartridges in this revolver.

The next point was as to the shooting of the boy Ananta. After referring to the evidence of the witnesses on this point, his Lordship said that the Jury had to decide whether the story told by the witnesses was true or not. From their point of view it had some similarity to the first portion of the case. Ananta was killed. There was no doubt about that Mr. Norton had suggested that Ananta was not shot by the accused and that the whole of that story was untrue. Let them suppose the story to be substantially true. Well, then they had this boy killed. The question they had to decide was whether the two incidents were connected and whether the accused killed the boy. If these people kept the accused in sight from where Ananta was killed to Musjid Bari Street, and if the Jury believed that, then it would be the strongest evidence they could get. They must therefore consider very carefully whether these men were to be believed or not. If the Jury believed that the accused was chased through Temple Lane, if they believed that he killed this boy in order to escape, they must believe that he abetted the murder of the Inspector; otherwise why should he be running away ? Here also there were a great number of details as to how Ganga and Ananta were standing and how they seized the accused. Mr. Norton had suggested that the evidence of Bhola Kalwar and Jogendro should not be believed, because they had been previously convicted. The Jury would have to consider whether those two men were so under the thump of the police that they would come forward to give false evidence. Bhola had been convicted, of being in illicit possession of cocaine and was convicted but acquitted on appeal.

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Jogendro was convicted in a gang case. If Mr. Norton's suggestion was true, the Jury would have to suppose monstrous wickedness on the part of the police. The Jury had to see how far the evidence bore out that suggestion.

They next came to the story of the chase being pursued from Sonar Gouranga Temple Lane, along Ahiritola Street,-to the right then down a twisting lane back into Chitpore Road. A question raised early in this case but not much dwelt upon was whether it might not have been possible for the man who was being pursued to have made away through Sonar Gouranga Temple Lane. The evidence was that the accused went along Ahiritola Street, turned southwards and so to Chitpore Road. Two witnesses heard shouting and saw a man running into Chitpore Road whom they could not identify. Mr. Norton had said that this evidence was called late. That was so. Mr. Norton had also said that these witnesses were not speaking the truth and were produced by the police. If that was so, the police would have produced them at a much earlier stage and would have made them identify the accused. The evidence of these two witnesses clearly fits the chase up to Chitpore Road. Of the progress of the accused's course along that winding lane they had no evidence. Mr. Norton had commented on it and had said it was curious that there was none. As a matter of fact they had no evidence as to how that lane was occupied.

This led to the last portion of the story, namely the arrsst in Musjid Bari Street. When they got to Musjid Bari Street, his Lordship was afraid that he must again ask the attention of the Jury to his notes of the evidence of the persons who spoke to what happened there. His Lordship first took the case of the men who were in the street before the chase came up.

After reading the evidence of the men in the

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street as well as of those who came up afterwards, his Lordship said that in this part of the case and on the evidence he had gone through there was no crime alleged against the accused. At the same time it was really the centre of the whole case because they had to consider the question of the identity of the accused. There was no doubt that the accused was the man who was arrested in Musjid Bari Street. If the man who shot Ananta was followed to Musjid Bari Street and arrested there, his Lordship could not suggest any way out of the conclusion that the man who was arrested was the man who killed Ananta. Mr. Norton's suggestion was that Sree Dousad had robbed the accused of a wrist watch, a handkerchief and other properties in Musjid Bari Street; that he became aware that the police were looking for a man who was implicated in the murder of the Inspector and who had murdered Ananta; that he instantly made over the accused to the police as that man; and that the police immediately accepted the position and proceeded to treat the accused in the way they would have treated the man they saw in the lane, had they caught him. The question was when did anyboby first hear anything of the kind? In cross-examination no suggestion had been made to the people who were in Musjid Bari Street as to the accused calling anybody to help him against Sree Dousad and the robbery the latter was committing.

The accused was taken to the police thana and there surely he had his chance of complaining of the robbery and the horrible injustice that was being done to him but he did not complain to anybody. Mr. Norton pointed out that he cross-examined two police officers to show that the complaint was made to them then and there in Musjid Bari Street.

His Lordship said that that was so. His point was that had this been done, the accused would have appealed to the bystanders and said, " Here are

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these robbers who have taken my wrist watch and are now giving me over to the police on some other charge." Again at the police station nothing was said to the Inspector, nothing was said to Mr. Walker, nothing was said to anybody and as far as his Lordship knew there was no trace of the suggestion that this robbery took place until trial began here.

Then the Standing Counsel had said to them perfectly truly that the pistol was the kernel of the case. Was the pistol taken from the accused in Musjid Bari Street? Had he got it there? If he had got the pistol when he came into Musjid Bari Street and when he was arrested there, it was very difficult to avoid the conclusion that he was the man who shot Ananta. If he was the man who shot Ananta, that raised the strong presumption that he was a party to the shooting of the Inspector. Therefore the question whether or not he had the pistol there was of very great importance. The pistol had been shown to be of a kind which was not commonly in the possession of the police authorities No pistol ought to be in the possession of a policeman at all. If the accused got hold of an official pistol it would be a different kind of pistol to this one. This pistol was cheap and it was bad and it was defective in its mechanism if they believed the expert evidence at all. Either the accused had it or the police planted it on him.

Could it be supposed that the police planted it on him in Musjid Bari Street?

That seemd to his Lordship to be a fantastic view; if it was not planted on him in Musjid Bari Street, it was suggested that it was planted on him at the thana. The best story that could be made for planting that pistol on the accused at the thana, was that it was done by or by the connivance of Inspector Mohendro. There was absolutely no evidence to support of that; but let them suppose that

Mohendro did such a wicked thing as to plant this pistol on the accused either when he was at the thana or as soon as Mohendro heard of his arrest. What did they get there? Mohendro had there a pistol suitable to compromise an innocent man as soon as he heard of the shooting of Ananta in the street. Mohendro went back to the thana and the accused must have arrived very soon afterwards. Mr. Walker had already been telephoned to come to the thana and he started at once on his motor-cycle and was expected at any moment. In those circumstances Mohendro produced from somewhere a pistol and put it on the table ready for Mr. Walker. The thana at that time must heve been very busy as they had had information about the murder of the Inspector and people must heve been going and coming. Could they really suppose—leaving out of sight altogether the terrible wickedness of Mohendro— that it was possible for Mohendro to get up that story against the accused in the space of time at his disposal and in the thana? Mr. Justice Stephen.

Referring to the rewards to the Police, his Lordship said that it was not for him or for the Jury to say whether those rewards ought to have been given or not. There was only one point of view from which it mattered to them and that was did it affect the evidence in this case? That was a matter for the Jury. For himself if a man thought he was going to be rewarded, his Lordship would rather have a witness who had been rewarded than a witness who thought he might be going to be rewarded and he would view with suspicion a witness who had anything like a pecuniary interest in the evidence he was giving. The witnesses who received the rewards had, his Lordship supposed, nothing more to look forward to. They received the rewards before they gave their evidence, and at all events they were free from the temptation of giving evidence in order to be paid for it afterwards. There were,

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however, one or two witnesses to whom that did not apply. Ram Bhujan Singh got his reward before he gave his evidence, before the Police Magistrate. The others got their rewards after they gave their evidence before the Police Magistrate and before they gave it here. As his Lordship said before he did not consider a man to be a coward who did a thing which he should very likely do himself. What did these men get a reward for? Mr. Walker said that they got a reward because they arrested a man with a pistol. Others had said the same thing. Mr. Norton now said that he had proved that the rewards were given for arresting a murderer. What Mr. Norton meant by proved was that some of these witnesses said that they got it for that. His Lordship suggested that Mr. Norton had not proved that those rewards were given for the arrest of the murderer. Mr. Norton said that it might influence the Jury that the Commissioner of Police in whom the Government placed their full confidence had branded a man as a murderer. His Lordship hoped that the Jury would not be influenced by that in so serious a matter as this. They had had no evidence of any order. They had had no evidence of what the Commissioner of Police or anybody else had said on that occasion. They had had some answer by some of the witnesses in cross-examination and an admission from some of them; by others a denial that it was for the arrest of the murderer and that it was because they ran after a man with a loaded pistol. The only matter they had really to consider was whether the giving of those rewards had affected the evidence which they had heard. Mr. Norton took objection on the ground that this man had been branded as a murderer and that it would affect them and prejudice them against the accused.

His Lordship next turned to the question of the pistol which he thought was one of the most impor-

tant questions in the case. He himself had some difficulty as to how an exploded bullet should come in between two unexploded ones in the chamber. Another important question was, where were the two exploded shots fired? The prosecution case was that the pistol which was a ·450 had five unused cartridges in its chamber before the Inspector was shot. It had been proved that all the bullets found in the body of the Inspector were ·360 and therefore it followed that the accused did not fire at the Inspector. It was also the case for the prosecution that the shot fired in Chitpore Road was fired by the other man and not the accused. One bullet from the revolver was used in shooting Ananta: Where was the other cartridge fired? Some of the witnesses had said that he fired at the Inspector and some even said that the shot hit the Inspector. But that was not possible for there were no marks of it. The prosecution did not satisfactorily explain this and that was undoubtedly a point in favour of Mr. Norton. Mr. Justice Stephen.

VERDICT.

The Jury retired at 10 minutes after five and after an absence of forty minutes returned.

In answer to the Clerk of the Crown, the Foreman of the Jury said that they were agreed as to two charges but were disagreed as to the other three charges. As regards the first charge of the murder of Nripendra Nath Ghose and the fourth charge of the murder of Ananta Teli, they unanimously found the accused not guilty. With regard to the second and third charges of abetment of murder in respect of Nripendra Nath Ghose, and the fifth charge of culpable homicide not amounting to murder in respect of Ananta Teli, they were disagreed in the proportion of five to four.

Mr. Justice Stephen: Is there any possibility of your coming to a unanimous verdict?

Verdict.

The Foreman of the Jury: No. We differ on one vital point which seems, to affect the whole case.

Mr. Justice Stephen: Will you kindly reconsider the matter?

The Jury again retired at 6 o'clock and returned ten minutes later.

In answer to the Clerk of the Crown the Foreman said that as regards the second, third and fifth charges they were still disagreed in the proportion of five to four.

His Lordship discharged the jury, ordered a fresh trial and directed that the prisoner be retained in custody.

Mr. Norton said that his client had been unanimously acquitted by the jury on the first and fourth charges.

His Lordship said that the verdict of acquittal on the first and fourth charges would be recorded.

[END OF THE TRIAL.]

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